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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Principles and practical guidance on the protection of the human rights of migrants in vulnerable situations*

Report of the United Nations High Commissioner for Human Rights

Addendum

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Contents

		Page
I.	Introduction	4
II.	The Principles and Guidelines	4
III.	How international law informs the Principles	25

List of abbreviations

AIDS	acquired immune deficiency syndrome
CAT	Committee against Torture
CED	Committee on Enforced Disappearances
CEDAW	Committee on the Elimination of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CMW	Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRC	Committee on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities
HIV	Human immunodeficiency virus
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICMW	International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance
ILO	International Labour Organization
IMO	International Maritime Organization
IOM	International Organization for Migration
LGBTI	lesbian, gay, bisexual, transgender and intersex
OECD	Organization for Economic Cooperation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
UDHR	Universal Declaration of Human Rights
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UN-Women	United Nations Entity for Gender Equality and the Empowerment of Women

I. Introduction

1. The present document contains the text of the principles and guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations which have been developed by the Global Migration Group Working Group on Human Rights and Gender Equality under the leadership of the Office of the United Nations High Commissioner for Human Rights (OHCHR). The principles and guidelines are being submitted to the Council pursuant to Human Rights Council resolution 35/17, in which the United Nations High Commissioner for Human Rights was requested to submit, as co-Chair of the Global Migration Group Working Group on Migration, Human Rights and Gender Equality, principles and practical guidance on the protection of the human rights of migrants in vulnerable situations, on the basis of existing legal norms, and to report thereon to the Council at its thirty-seventh session

II. The Principles and Guidelines

Principle 1

Ensure that human rights are at the centre of efforts to address migration in all its phases, including responses to large and mixed movements.

Guidelines

1. Ratify and implement all international and regional human right instruments and reaffirm in policy and practice the fundamental importance of respecting, protecting and fulfilling the human rights of all migrants without discrimination of any kind.[1]
2. Ensure that legislation and other measures of migration governance are consistent with States' obligations under international human rights law and permit all migrants to enjoy fully all their human rights and fundamental freedoms.[2] Before adopting new policies on migration, undertake due diligence, including human rights impact assessments, and consult migrants and other relevant stakeholders. Immediately review and suspend, amend or repeal any laws or other measures that have a negative or disproportionate impact on the human rights of migrants.[3]
3. Ensure that local, national, regional and international policy making on migration is subject to oversight, including parliamentary scrutiny; publish all bilateral agreements, readmission agreements and memoranda of understanding relevant to migration.[4] Ensure that international cooperation consistently complies with the obligation to respect, protect and fulfil human rights, including migrants' rights, and that such cooperation is never made conditional on measures that unlawfully or disproportionately restrict or penalize migration or migrants.
4. Undertake systematic and continuous efforts to sensitize and build the capacities of professional bodies, including the judiciary, police, border authorities, health and education personnel, civil servants, municipal and local government officials, and others, to promote and protect migrants' human rights, address discriminatory attitudes and stereotypes, and apply rights-based methods that are responsive to culture, gender and other factors.
5. Ensure that it is not a criminal offence to leave, enter or stay in a country irregularly, given that border crossing and the management of residence and work permits are administrative issues. Any administrative sanctions applied to irregular entry should be proportionate, necessary and reasonable, and should never include the detention of children.[5] Ensure that migrants are not subject to criminal prosecution for having used the services of smugglers.[6]
6. Make sure that appropriate laws and procedures are in place to enable human rights and humanitarian actors to protect and assist migrants and document human rights violations. Adopt or amend legislation to ensure that public and private actors engaged by the State in migration governance are held accountable for human rights violations and abuses.[7]
7. Act to prevent statelessness, recognizing inter alia that statelessness is not a gender-neutral phenomenon, and ensure that all children are able to acquire a nationality.[8]

Principle 2

Counter all forms of discrimination against migrants.

Guidelines

1. Elaborate and implement human rights-based legal measures that protect migrants from all forms of discrimination regardless of their sex, gender, sexual orientation, gender identity, race, ethnicity, language, religion or belief, political or other opinion, social origin, disability, nationality, migration or residence status, age, their motives for seeking to cross international borders, or the circumstances in which they have travelled or are found. Protect migrants from multiple and intersecting forms of discrimination throughout their migration. Ensure that legal provisions to prevent discrimination apply across all aspects of migration governance.[9]
2. Repeal or amend all laws or measures that may give rise to discrimination against migrants, including direct and indirect discrimination that is based on multiple grounds.[10] Condemn and take effective measures against all acts and expressions of racism, racial discrimination, xenophobia and related intolerance, against stereotyping of migrants (including on the basis of religion or belief) because they are non-citizens or have an irregular status, and against other intersecting forms of discrimination such as age and gender. Hold those who commit such acts accountable, including politicians, opinion-leaders and the media, and enable victims to access justice, including through accessible complaint mechanisms; provide effective remedies.[11] Make sure that serious and extreme instances of hate speech and incitement to hatred are criminal offences that are brought before an independent court or tribunal.[12]
3. Ensure that, regardless of their status, migrants are able to enjoy their right to freedom of association including through forming and joining trade unions and participating in informal networks and associations as well as community and faith-based activities.[13] Take steps to ensure that migrants can freely have or adopt a religion or belief of their choice as well as manifest individually or in community with others their religion or belief, in worship, observance, practice and teaching, in private and public.[14]
4. Use accurate, neutral and gender-sensitive terminology to describe migrants and migration, and promote migration policies that draw on evidence-based research that considers the human rights of migrants as well as their impacts on and contributions to countries of origin, transit and destination. Research should examine, inter alia, impacts on and contributions to social and cultural life and diversity, economic growth, employment generation, social security programmes, entrepreneurship, and taxation and investment.[15]
5. To combat prejudice and the social stigmatization of migrants, introduce public education measures and run meaningful and targeted awareness campaigns. Focus as required on specific factors, such as nationalities or religions that are subject to particular discrimination.[16] Promote local campaigns that support migrants and host communities, that build empathy and solidarity, and reinforce notions of a shared humanity, and that confront prejudice, stigmatisation, and exclusion.[17]
6. Improve knowledge, build capacity and sensitize media professionals and outlets on the situation and human rights of migrants.[18] Strengthen the capacity of editors, journalists and other media professionals to report migration issues accurately and sensitively, avoiding harmful stereotypes, valuing inclusive and diverse societies, and promoting migrants' human rights.
7. Create or strengthen independent institutions and mechanisms, including specialized national bodies such as national human rights institutions or ombudspersons, to monitor and report on discrimination against migrants.[19] Ensure that all ombuds offices that have relevant mandates consider the intersection of migration with their areas of focus.

Principle 3

Ensure that migrants have access to justice.

Guidelines

1. Take measures that will enable migrants, including migrants at particular risk of marginalization and exclusion, to enjoy effective and equal access to justice, without discrimination on any basis.[20] Ensure that migration status that depends on a single employer or a partner is not a barrier to seeking or obtaining protection, support, or justice.[21]
2. Take steps to provide competent, independent, free and confidential legal and other assistance to migrants, including accessible information and interpretation services, enabling them to:
   - Understand their rights and obligations as well as relevant criminal, administrative, civil and labour justice procedures.
   - Obtain due process and justice, including the rights to an individual examination, to seek asylum, to appeal, and to an effective judicial remedy.
   - Access victim support services.[22]
3. Ensure that migrants have effective and confidential access to qualified, independent and competent lawyers, and can obtain legal advice and representation during legal proceedings that affect them, including during related hearings. Competent legal aid should be made available to migrants without cost, in accordance with international standards.[23]
4. Strengthen or establish official mechanisms and procedures to receive, investigate and monitor allegations of human rights violations and abuse of migrants. Provide adequate, effective, prompt and appropriate age and gender-responsive judicial remedies, and reparation, noting that reparation should be proportional to the gravity of the violations and the harm suffered.[24] Ensure that the gender balance of such mechanisms and procedures corresponds with that of the migrant population. Where relevant, ensure that the families of migrants who are missing, were victims of enforced disappearance, or were killed during migration, can use such mechanisms and procedures.[25]
5. Ensure that migrants who have been victims of crimes, or witnessed crimes, can participate, give evidence and testify in legal proceedings, whether or not they are in the jurisdiction of the prosecuting State; and can do so without fear of expulsion.[26] Consider granting legal status to migrant victims or witnesses of crimes during the process of accessing justice.
6. Establish explicit and binding procedures and standards (firewalls) separating the criminal justice system and immigration officials, and ensure they are applied.[27] Ensure that immigration authorities do not conduct enforcement operations in or near places where justice is administered, such as courts and community police stations.
7. Ensure that judges, lawyers and prosecutors who are involved or may become involved in proceedings relating to migrants are aware of relevant international human rights law and standards, and empower them to respect and fulfil their responsibility to uphold and protect the human rights of migrants. Ensure that the judiciary, legal profession and prosecutorial services are enabled to fulfil their roles and uphold the legal and practical guarantees of independence and impartiality that international human rights law and standards require.[28]

Principle 4

Protect the lives and safety of migrants and ensure that all migrants facing risks to life or safety are rescued and offered immediate assistance.

Guidelines

1. Ensure that relevant national legal frameworks as well as arrangements for cooperation and coordination between States uphold and strengthen the effectiveness of the search and rescue regime, in accordance with international human rights and refugee law, the international law of the sea, and other relevant standards.

Principle 4

Protect the lives and safety of migrants and ensure that all migrants facing risks to life or safety are rescued and offered immediate assistance

2. Establish, operate and maintain adequate and effective services for search and rescue at sea regardless of presumed nationality or legal status of migrants who are in distress at sea or the circumstances in which they are found. Ensure that search and rescue services and coordinating authorities operate under a broad understanding of distress, so that timely and necessary assistance is provided to migrants in unseaworthy vessels even if they are not in immediate danger of sinking. Ensure that all possible State and other resources are mobilized, including by means of cooperation between States where appropriate, for search and rescue responses including proactive patrolling when informed risk assessments suggest that migrants who may require assistance are likely to be present along a particular sea route.[29]
3. Make every effort to protect migrants' right to life, wherever they are at risk on water or on land. Ensure that rescue services are adequately resourced and provided with all necessary equipment such as rescue beacons. Avoid acts and inaction that are likely or expected to cause the unnatural or premature death of migrants, or deny them a dignified existence.[30]
4. Prepare safe places for arrival and disembarkation that meet human rights standards for reception and assistance. Arrival and disembarkation points should be staffed by trained personnel who are able to screen arrivals for medical needs and provide emergency assistance, assess situations of vulnerability, offer initial psychological assistance, and provide basic information to migrants including information on their rights. Arrival points should provide adequate shelter and the opportunity to rest, and distribute food and water, blankets, clothing, hygiene or dignity kits, and sanitary items.[31] Assistance should be non-discriminatory, culturally appropriate, gender responsive and sensitive to disability and age.[32] Such assistance must be provided unconditionally, where necessary taking priority over border control or police or other enforcement procedures.
5. Establish operational guidelines and agreements with national protection bodies and other relevant actors that ensure timely and effective referral of migrants who need protection and assistance, especially those who need psychological and emotional support after rescue. Ensure provision of information about asylum procedures and effective referral pathways. Make sure that specialized support is provided as a priority to those in the most vulnerable situations, including survivors of shipwreck, trauma, torture, trafficking in persons, sexual and gender-based violence. Respond specifically to the special needs of children who have been rescued, whether they are travelling with their family or guardians, have been separated from them, or are travelling unaccompanied.[33]
6. Make sure that those responsible for search and rescue or for providing assistance are properly trained and understand their primary obligation to save life, uphold the principle of non-refoulement including in the context of rescue operations and disembarkation arrangements, ensure the human rights, safety and dignity of persons rescued, and address their specific needs.[34]
7. Ensure that the organizations and individuals who rescue or provide assistance to migrants are not criminalized or otherwise punished for doing so. Where necessary, legislation should be modified accordingly.[35]
8. Promote national, bilateral, regional and international efforts and cooperation, to search for people who have disappeared or died on their journey, facilitate the recovery, identification and transfer of their remains, and safely and appropriately notify their families. Grant relatives access to justice and, when appropriate - such as in the context of enforced disappearances or deaths caused by arbitrary or abusive use of force - to effective redress.[36]

Principle 5

Ensure that all border governance measures protect human rights

Guidelines

1. Protect the right of all persons to leave any country, including their own. Ensure that legislation, measures and practices relevant to migration governance and border governance comply with human rights standards, are child-sensitive and gender-responsive, and do not adversely affect the human rights and dignity of migrants.[37]
2. Ensure that no migrant is criminalized for crossing a border irregularly or with the help of a facilitator.[38]
3. Prohibit border governance measures that cause human rights violations or abuses or make them more likely.[39] Prohibit excessive use of force and dangerous border control practices, such as water-hosing and use of dogs against migrants.
4. Take all reasonable measures to minimize the time during which migrants are delayed at borders or other crossing points on their journey. Provide adequate humanitarian assistance during border procedures and delays. Humanitarian assistance includes the provision of shelter, gender-responsive water and sanitation facilities, medical care, including sexual and reproductive health services, and culturally appropriate food, and should meet the specific needs of migrants including children, pregnant or nursing women, older persons and persons with disabilities.
5. Implement individual screening and assessment procedures as soon as possible after migrants arrive, so that those in vulnerable situations can be identified promptly and without discrimination, and can be referred to appropriate services and protection bodies. Ensure that enough competent experts are present at borders to complete human rights-based screenings and referrals.[40]
6. Establish or strengthen practical and effective mechanisms to assess the individual human rights situation of all migrants and prevent or suspend any expulsion until assessment and appeal processes have been completed.[41] As necessary, such assessment can take place prior to, alongside or at the same time as interviews to establish asylum claims. Such assessments should operate without prejudice to a person's right to seek asylum. An assessment mechanism should:[42]
   - Be implemented by qualified personnel.
   - Be able to assess the risks and rights of individual migrants, including their need for protection of any kind.
   - Work in a timely manner, while giving interviewees adequate time to present their case and seek remedies where appropriate.
   - Make competent legal advice and representation available to migrants.
   - Have power to access all documents related to a case.
   - Justify its decisions in writing in a language and format understood by the migrant in question.
   - Have authority to exercise immigration discretion on humanitarian grounds where appropriate, including for migrants displaced by climate change and environmental factors.
   - Provide information on the remedies available.
   - Be able to arrange appropriate referrals.
7. Ensure that border authorities do not confiscate migrants' personal property except when duly authorized to do so by law. Legal authorization to confiscate should comply with international human rights standards, limit and clearly define the circumstances in which confiscation may be authorized, and establish clear procedures for the return of confiscated property.[43]
8. Ensure that border authorities are properly trained, and understand their obligation to respect, protect and fulfil the human rights of migrants as well as the abuses that migrants may experience during the migration process. Training materials should draw on real experiences of migrants when crossing borders, and should analyse the different risk factors and human rights violations that different groups of migrants may experience.[44]
9. When human rights violations and abuses occur at a border, ensure they are promptly and properly investigated and that migrants have access to effective complaint

Principle 5

Ensure that all border governance measures protect human rights

mechanisms and redress without discrimination on any basis. In this and other border governance concerns, follow OHCHR Recommended Principles and Guidelines on Human Rights at International Borders.[45]

Principle 6

Ensure that all returns fully respect the human rights of migrants and comply with international law

Guidelines

1. Ensure that relevant judicial and administrative authorities are made aware of and implement legal obligations to ensure that no person, regardless of their status, is returned to a place where there are substantial grounds to believe that they would be at risk of being subject to torture or other cruel, inhuman, or degrading treatment or punishment, or other serious human rights violations, including: enforced disappearance; threats to the liberty and security of the person; risks to their life (including absence of necessary medical care); living conditions contrary to human dignity, where a person cannot meet basic needs; serious forms of discrimination; or the risk of chain refoulement.[46] Counter-smuggling measures and measures to manage irregular migration (such as the creation of special zones at airports or readmission agreements) must not breach the prohibition of refoulement and must respect, protect and fulfil the human rights of migrants.[47]
2. Implement the legal obligation to ensure that no arbitrary or collective expulsions occur, for example by tow-backs or push-backs, in any area over which the State exercises jurisdiction or effective control, including areas outside the territory of the expelling State, border areas, and on the high seas.[48]
3. Any migrant who is asked to consent to a voluntary return process must be fully and meaningfully informed of the choice they make, having access to up-to-date, accurate and objective information, including in relation to the place and the circumstances to which they will be returning. Consent must be given free of any coercion. This means, inter alia, that the migrant must not be subject to violence or ill-treatment intended to force compliance, to an actual or implied threat of indefinite or arbitrary detention, or to detention in inadequate conditions.[49]
4. Make efforts to enable returning migrants to choose the State to which they return, subject to the agreement of that State. Make sure that the right of a migrant (and any person) to return to their own country is respected in law and practice. This right implies among other things that no migrant should be deprived arbitrarily of their nationality or travel documents.[50]
5. Ensure that returns are only carried out in accordance with international law, in safe conditions and with dignity. Respect procedural guarantees. Children should be accompanied throughout the return process. Migrants who are being returned should not be subject to human rights violations or abuse by State or private actors; this means inter alia that they should not experience arbitrary detention, violence or ill-treatment, or extortion.
6. The best interests of the child should be a primary consideration in decisions relating to return. This means that children should only be returned when it has been determined that is in their best interests. Considerations such as those relating to general migration control, cannot override best interests considerations such as, inter alia, family unity, survival and development.[51] A formal best interests determination procedure should be conducted,[52] for which the following safeguards may apply:
   - Be a formal and multidisciplinary procedure carried out by actors independent of the migration authorities, including a meaningful participation of authorities responsible for child protection and welfare and other relevant actors, such as parents, guardians and legal representatives, as well as the child.
   - Contain appropriate safeguards. These include, inter alia, the rights of the child to be heard, and to have competent and independent legal representation.

Principle 6

Ensure that all returns fully respect the human rights of migrants and comply with international law

- Assess fairly and equally all the solutions that are available to the child.
- Give full consideration to factors affecting the child's development and survival and whether they can return to safe and adequate conditions, including socio-economic conditions in the child's country of origin.
- Take into account the family environment and whether the child can be provided proper care and custody.[53]

7. Where return is deemed not to be in the child's best interests, keep families together in the country of residence rather than remove parents without their children.[54] When unaccompanied and separated children are returned, States of origin and destination should cooperate to continue family tracing efforts after return.
8. Ensure that return is sustainable by mitigating the risks that returnees face in their countries of origin. Implement all possible measures that could enable returning migrants to enjoy their human rights, including their entitlements to social protection, health care, an adequate standard of living, decent work, education, and justice.[55] Returning and receiving States should as relevant provide effective and tailored reintegration programmes that address the different needs of returnees, on the basis of age, gender and other factors. As far as possible for all returns, and as a matter of course for each child being returned, prepare a plan for sustainable reintegration and continued evaluation. Such a plan should include targeted measures such as effective access to justice, education, health, family life, and protection against all forms of violence.[56] Return should not cause children to become homeless; nor should they be housed in orphanages, residential care facilities, or any situation that will compromise their development or lead to social exclusion.[57] Migrants should not be returned to areas that are experiencing extreme weather or slow onset climate events.[58] After migrants return, put long-term, independent reporting mechanisms in place to monitor the risk and occurrence of human right violations.[59]
9. Returning and receiving States should respectively establish independent mechanisms to monitor human rights in pre-removal and return processes and after migrants return. These should:[60]
   - Confirm that returns do not violate the principle of non-refoulement, the right to seek asylum, or the prohibition of arbitrary and collective expulsion.
   - Guarantee that all allegations of human rights violations during the process of return are promptly and impartially investigated.
   - Monitor the human rights situation of migrants, both those who returned voluntarily and those who are forcibly returned.
   - Ensure that all returned migrants have access to effective complaint mechanisms and remedies.
10. Put in place appropriate administrative and legislative mechanisms to grant legal status to migrants who cannot return, including those who cannot be removed on grounds related to the fundamental prohibition of non refoulement or other obligations under international human rights law, or those who are refused admission to the territory of their country of origin or habitual residence as well as those who are prevented by practical obstacles from returning to their country of origin or residence. Do not hold migrants who cannot be returned in indefinite or protracted detention.[61]
11. Whether return is forced or voluntary, give due consideration to the provisions on "human rights-based return or removal", as per OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders.[62]

Principle 7

Protect migrants from torture and all forms of violence and exploitation, whether inflicted by State or private actors

Guidelines

1. Take measures to prevent and respond to torture and all forms of exploitation and violence against migrants, whether by State institutions, officials, private bodies or individuals.[63] Ensure that the measures taken will prevent the recurrence of abuse and are accessible to all migrants. When devising them, consult migrants and their organizations as well as experts in the criminal justice system and representatives of employers' and workers' organizations. All immigration facilities should adhere to standards for preventing and responding to violence, including sexual and gender-based violence. Immigration facilities should provide safe accommodation and assistance to migrants who are victims of torture, violence and exploitation.
2. Ensure that legislation and policy, as well as practice, reduce the risk that migrants will be exploited by those who offer them services or work in the formal or informal sectors, including the risk of being subject to forced labour or trafficking in persons. Ensure that migrant children are protected from exploitation and abuse, including the worst forms of child labour.[64]
3. Establish accessible and confidential services for migrants who are survivors of violence and exploitation. These should include healthcare, counselling, reporting and complaints mechanisms, and effective referral arrangements.[65] Migrants should have access to medical care, sexual and reproductive health services, and essential medicines, as well as psycho-social and other forms of support to assist their recovery and rehabilitation.[66] Service providers should be trained to understand the human rights of migrants and migrant families who have been affected by violence, to respond to their needs, and to overcome anti-migrant bias.[67] Migrants' experiences of violence, including domestic violence and sexual and gender-based violence, should be addressed without causing further victimization, trauma or harm. Ensure that relevant information on protection, services and rights is made available to migrants in a format and language they understand and in an age-appropriate manner.
4. Strengthen law enforcement and criminal justice responses to violence against migrants and to their exploitation. Ensure that any alleged use of excessive force, including lethal force, and any alleged act of violence against or exploitation of migrants, regardless of their status or situation and whether the alleged perpetrator acted in a public or private capacity, is promptly, independently and effectively investigated and prosecuted.[68]
5. Take measures to encourage migrants to report crimes committed against them. To facilitate this, establish explicit and binding firewalls enabling migrants to report crimes, participate in criminal justice proceedings, and receive related assistance and support without fear that they will be arrested, detained or expelled because of their migration status.[69] Ensure that sentences imposed on those who exploit migrants, or commit violence against them, are proportionate to the seriousness of the offence.[70]

Principle 8

Uphold the right of migrants to liberty and protect them from all forms of arbitrary detention. Make targeted efforts to end unlawful or arbitrary immigration detention of migrants. Never detain children because of their migration status or that of their parents.

Guidelines

1. Establish in law a presumption against immigration detention and require administrative and judicial bodies to presume in favour of liberty.[71] Work progressively, including through the development of national plans to end all forms of immigration detention.[72]

Principle 8

Uphold the rights of migrants to liberty and protect them from all forms of arbitrary detention. Make targeted efforts to end unlawful or arbitrary immigration detention of migrants. Never detain children because of their migration status or that of their parents.

2. Prioritize the implementation of non-custodial, community-based alternatives to detention that fully respect the human rights of migrants and that are based on an ethic of care rather than enforcement.[73]
3. Avoid the immigration detention of persons who have specific needs or who are particularly at risk of exploitation, abuse, sexual or gender-based violence, or other forms of violence. Such people include, inter alia, pregnant and nursing women, older persons, persons with disabilities, survivors of torture or trauma, migrants with particular physical or mental health needs, LGBTI individuals and stateless persons.[74]
4. Children should never be detained for immigration purposes, even for short periods, whatever their status or the status of their parents.[75] Prioritize the right to liberty and the right to family life of children by finding alternatives to detention for the whole family. Children whose parents or guardians are detained should never be detained for the purpose of preserving family unity.[76]
5. In the exceptional circumstances where immigration detention is used, ensure that procedural safeguards are fully implemented. These safeguards:
   - Clearly define in law the reasons for detention.[77]
   - Require those reasons to be explained to migrants orally and in writing, in a language and format they understand, if necessary with the assistance of an interpreter.[78]
   - Provide that detention can only be ordered by a court of law.
   - Stipulate that detention is to be determined case-by-case, is an exceptional measure of last resort, and should last for the shortest period of time.
   - Require detention orders to include information on the individual's rights in connection with the decision.[79]
   - Require due process of law, including access to legal counsel and fair trial guarantees.
   - Migrants deprived of liberty have prompt access to an independent lawyer, who should be able to visit and communicate with their clients, both to make effective a migrant's right to challenge the lawfulness of their detention, and as a safeguard against torture and other cruel, inhuman or degrading treatment and enforced disappearance.[80]
   - Guarantee detainees the right to challenge the lawfulness of any deprivation of liberty in a timely manner before a court. That court must be independent of the detaining authority and empowered to order a detainee's prompt release if detention is found to be unlawful.[81]
   - Prohibit all mandatory or indefinite detention, ensuring that any use of detention is necessary, proportionate and limited in duration
   - Permit detention only when no suitable non-custodial alternatives are available that meet the same legitimate aim, with justification provided in relation to each individual case as to why detention is the only measure available.[82]
6. Detention conditions should respect the fundamental dignity of the person and meet minimum standards of international law, including the following:[83]
   - Facilities are clearly designated for the purposes of immigration detention and the conditions reflect its administrative purpose. Migrants are never held in criminal prisons, jails or other prison-like facilities for immigration reasons.[84]
   - Any restrictions imposed on freedom of movement or personal autonomy within the detention environment are applied only to the extent necessary to protect the rights of others and to maintain public order.[85]
7. Ensure that all places where immigration detention might occur are effectively monitored by independent mechanisms which have an explicit human rights mandate to protect the rights of migrants deprived of liberty, including children, and prevent and address any act of torture or other form of ill treatment and violence, including gender-based violence and retaliation after monitoring visits. Ensure that the roles

Principle 8

Uphold the right of migrants to liberty and protect them from all forms of arbitrary detention. Make targeted efforts to end unlawful or arbitrary immigration detention of migrants. Never detain children because of their migration status or that of their parents.

and responsibilities of monitoring mechanisms are defined clearly and that they exercise appropriate powers defined by law. Their powers should include the authority to:

- Visit any place where immigration detention might occur, and do so unannounced.
- Choose the places they want to visit and the persons they want to interview.
- Obtain any information they need, request reports before, during and after their inspection visits, and receive a prompt response.
- Conduct private interviews (where necessary assisted by a translator) with migrants and any other person who may supply relevant information.
- Make public the results of their inspections and recommendations (while preventing the disclosure of information that might put a migrant at risk).[86]

8. Take steps to ensure that consulates respond effectively to the needs of their citizens in immigration detention. Such measures should include legal aid, help to access justice and obtain due process, and material assistance. To meet these needs, consulates should set aside sufficient human and financial resources, and should train consular staff in human rights law.[87]
9. Detaining authorities should be made aware that drawing a detained migrant to the attention of a consular authority without that person's knowledge and informed consent may put him or her at risk (for example, irregular migrants and LGBTI individuals).[88]
10. State and private actors, including the security forces, should be held accountable for unlawful or arbitrary detention, poor standards of detention, or other violations or abuses of human rights. Any detained migrant who suffers such abuses or ill-treatment is entitled to obtain an effective remedy and reparation.[89]

Principle 9

Ensure the widest protection of the family unity of migrants, facilitate family reunification, prevent arbitrary or unlawful interference in the right of migrants to enjoy private and family life.

Guidelines

1. Take steps to ensure that migrant families are not separated during disembarkation and border controls, at reception or registration, or in the course of detention and deportation. Separating a family by deporting or removing a family member from a State party's territory, or otherwise refusing to allow a family member to enter or remain in the territory, may amount to arbitrary or unlawful interference with family life.[90]
2. Domestically and in bilateral and regional processes, facilitate efforts to reunite families and keep them together.[91] Strengthen regular channels for family reunification; these should not discriminate and should include no disproportionate restrictions with respect to age, income, or language. Ensure that migrants and members of their families who request family reunification do not suffer adverse consequences for doing so.[92] Ensure that children are entitled to express their views freely when decisions are taken about possible reunification with their families.[93] Family reunification should never be used to justify expedited return in the absence of due process.
3. Make every effort to trace and reunite unaccompanied or separated children with their parents, in accordance with the best interests of the child, noting that reunification in the country of origin may not always be in the child's best interests.[94] Without compromising human rights standards, simplify and speed up procedures that assist children to reunite with their families. In particular, guarantee that applications by a child or a child's parents to enter or leave a State for the purpose of family reunification will be dealt with in a positive, humane and expeditious

Principle 9

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manner.[95]

4. Family registration and reunification processes should recognize that various forms of family exist. Gendered, heteronormative, or other stereotyped or prejudicial assumptions should not influence the registration or reunification of family representatives.[96]
5. Ensure, inter alia by providing legal assistance and judicial and administrative protection, that parents who have been removed can exercise their rights to family unity and to custody of their children, including children who are citizens of the State that is removing their parents, before the courts of that country.[97]
6. Families with children should be accommodated together in a safe and child-friendly environment.[98]

Principle 10

Guarantee the human rights of all children in the context of migration, and ensure that migrant children are treated as children first and foremost.

Guidelines

1. Base all legislation and policies on migrant children and other children affected by migration, such as those who remain in countries of origin as well as those who are born to migrant parents, as well as practice and guidance, on:
   - International human rights law, and in particular the principles of non-discrimination, the best interests of the child, the full participation of all children, and the survival and physical, mental, spiritual, moral and social development of migrant children and children of migrants. Keep in mind that the best interests principle considers the short-, medium- and long-term effects of actions related to the development of the child.[99]
   - The child's best interests should always take precedence over migration management objectives or other administrative considerations. Children in the context of migration must be treated first and foremost as children. All children, regardless of age, should enjoy equal standards of protection.[100]

   Children are entitled to:
   - Due process guarantees, including the right to qualified legal representation.[101]
   - Opportunities to express their views freely in all matters that affect them and to have their views taken into account in accordance with their age and maturity.[102]
   - Age-appropriate and child-sensitive information about their rights and any processes that will involve them.[103]
2. Provide guidance on how to operationalize the principle of the best interests of the child for migrant children. Guidance should be based on international human rights law and best practice, and should be made available to child protection officers and other relevant officials.[104]
3. Where there is a reasonable doubt about the age of a migrant, age determination procedures should be gender-sensitive, culturally appropriate and multidisciplinary, drawing on comprehensive assessments inter alia by independent and qualified psychologists and social workers; they should be conducted in a safe, age-appropriate and dignified manner. States should refrain from using medical methods based on, inter alia, bone and dental exam analysis, which may be inaccurate and with wide margins of error.[105] In situations of ambiguity or doubt, the benefit of the doubt should be given to the individual who is being assessed.[106] Returns should be suspended and children should not be detained while their age assessments take place. Never detain children because of their migration status or that of their parents.
4. Ensure that, in their design and implementation, national child protection systems mainstream into their programmes the situation and the distinctive needs and views

Principle 10

Guarantee the human rights of all children in the context of migration, and ensure that migrant children are treated as children first and foremost.

of migrant children and children born to migrant parents.[107] Both domestically and across borders, coordinate child protection policies and systems to ensure they comply fully with international human rights law; ensure that officials who are likely to encounter migrant children are trained in good practices such as child-friendly communication. As far as possible, make sure that adequate numbers of trained child protection officers are available at all stages of the migration journey.[108]

5. Wherever possible, ensure that child protection officers, not immigration or border enforcement officials, screen child migrants. Where this is not possible, ensure that immigration or border enforcement authorities who do screen children have specific training on child protection and child-friendly communication. Child protection officers should be empowered to refer migrant children to relevant experts for further screening, interview, assistance and protection.
6. Provide unaccompanied and separated migrant children with specific protection and assistance.[109] Establish or strengthen guardianship mechanisms. Ensure that qualified, trained and independent guardians are appointed promptly to provide gender-responsive protection and assistance to all unaccompanied children and child-headed households as soon as they are identified.[110] Unaccompanied children who are not in adequate family-based care arrangements must be accommodated in their own reception facilities, separate from adults.[111] Develop national implementation plans to ensure that all unaccompanied migrant children have swift access to competent guardians.
7. Provide adequate follow-up, support and transition measures for migrant children when they reach 18 years of age, particularly those leaving a care context. Ensure they are given access to information, have possibilities to attain a regular long-term migration status, receive welfare assistance, and have opportunities to complete their education and integrate in the labour market.[112]
8. Ensure that every child born in in a migration context is properly registered, without charge and regardless of the migration or residence status of their parents or other guardians.[113]

Principle 11

Protect the human rights of migrant women and girls.

Guidelines

1. Design legislation, policy and programming to meet the specific needs and rights of migrant women and girls. When drafting and regularly reviewing migration laws, policies and programmes, consult a cross-section of migrant women of different nationalities, including adolescent girls, women who head households, pregnant and nursing women, and women with disabilities, to ensure that these meet their needs, comply with human rights and do not discriminate on grounds of gender or intersectional factors.[114] Ensure that in all relevant situations trained and sufficient case workers, lawyers, health providers, interviewers and independent interpreters, including women professionals, are available to provide appropriate support to migrant women and girls.
2. Guarantee that in all screening and assessment situations, migrant women and girls are able to present their circumstances and claims in a safe, culturally-appropriate and gender-responsive environment. Ensure that childcare is also available during interviews. Ensure that women's reports of human rights abuses are not viewed through the lens of male experiences.[115]
3. In all reception facilities and other centres for migrants, ensure that women and girls do not suffer discrimination in the allocation or control of resources. Women staff should be present wherever women or girls are accommodated. All centres should provide well-lit, safe and private gender-responsive water, sanitation and hygiene

Principle 11

Protect the human rights of migrant women and girls.

(WASH) facilities, separate housing for women and men (except where families want to stay together), safe and culturally-appropriate spaces for women where they can rest and receive information and other services, and women-only mother/baby areas.[116]

4. Ensure that trained staff is available at all sites to timely identify and support migrant women and girl who have experienced trauma, including sexual and gender-based violence. Migrant women and girls should be able to obtain specialized medical and psychosocial support, sexual and reproductive health services, goods and information, and other relevant gender-responsive services such as trauma counselling and legal advice.[117] Establish and implement national referral mechanisms which can provide appropriate procedural guarantees and protection.
5. Make sure that border police and immigration officials, including contracted private actors, are trained to recognize and respect the needs and human rights of migrant women and girls and to fulfil their duties without discrimination. To this end, ensure that such staff is adequately equipped, trained, supervised and monitored.[118]
6. Apply a robust gender analysis to all migration policies and programmes, including, inter alia, those relevant to employment, labour rights, detention, the provision of passports, visas and residence permits, and bilateral and multilateral agreements such as readmission agreements.[119] Identify in particular policies or practices that frame women and girls as victims in solely as victims in need of protection.[120] Review and amend any laws or practices that discriminate, inter alia, on grounds of sex, civil status and pregnancy, do not recognize the autonomy of women and girls or their capacity to take decisions, or otherwise limit their opportunities.[121]
7. Eliminate sex-specific bans and discriminatory restrictions on women's and girls' migration which limit the mobility of women migrants, including on the basis of age, marital status, migration status, pregnancy and/or maternity status. Lift restrictions that ban out-migration for migrant women to specific regions or States, as well as those that require women to obtain permission from a spouse or male guardian to obtain a passport to travel. Further, ensure that visa schemes do not discriminate against women, such as by restricting their employment to specific job categories or by excluding female-dominated occupations from visa schemes.[122]

Principle 12

Ensure that all migrants enjoy the highest attainable standard of physical and mental health.

Guidelines

1. Ensure that health systems and national plans of action on health include migrants, regardless of their status, and establish legal and administrative mechanisms to ensure that migrants are included in fact. Make clear in explicit terms that migrants cannot be denied access to public health care services because of their migration status. Promote health policies and programmes that ensure migrants enjoy equitable, affordable and acceptable access to health care,[123] including preventive, curative and palliative health services, essential drugs and medicines, and child vaccinations.[124]
2. Make sure that the care migrants receive (in health facilities and with respect to goods, services and conditions) meets human rights standards, is non-discriminatory and gender-responsive, culturally and linguistically appropriate, and tailored to migrants' needs.[125]
3. Timely and accurate information on health and health rights should be made available to migrants at all stages of their journey, along migratory routes, at reception points, and in communities where migrants live and work. It should be provided in a language and format that migrants can understand[126] and should state clearly that migrants are entitled to universal health services, including primary health care and rehabilitative and emergency medical care.
4. Provide access to comprehensive human rights-based sexual and reproductive health

Principle 12

Ensure that all migrants enjoy the highest attainable standard of physical and mental health.

information and services. These should include, inter alia: menstrual hygiene products; safe and modern methods of contraception; emergency contraception; maternal health care, including emergency obstetric services and pre- and postnatal care; safe, legal and accessible abortion care; prevention and treatment of sexually transmitted infections (including HIV), and associated care and support; and specialized care for survivors of sexual violence and abuse.[127] Provide as a priority a minimum initial service package for reproductive health.[128]

5. All HIV testing of migrants should be voluntary, on the basis of informed consent. It should take place in private and guarantee the confidentiality of results, and should include pre- and post-test counselling. Migrants who test positive for HIV should not be denied access to care or suffer other negative consequences, such as removal or return, or restriction of their freedom of movement; such outcomes would not serve public health objectives and would violate their rights.[129]
6. In conjunction with relevant actors, including civil society service providers, develop strategies that will provide continuity of care for migrants who have long-term or chronic health needs. To this end, make every effort to ensure, inter alia, that mechanisms are in place to transfer medical records at all stages of migration and to wherever migrants are detained or relocated.[130]
7. Recognize that migrants may experience severe emotional distress and may have particular and often urgent mental health needs. Ensure they have access to adequate mental health care, including at reception, and can be referred to appropriate secondary services. Provide psychosocial support for migrants who have lost family members and for migrant women who have suffered miscarriages during their journey. Migrant children must have access to specific care and psychological support, recognizing that children experience stress differently from adults. To ensure that mental health programmes are culturally appropriate and avoid stigma, design and deliver them in cooperation with migrants.[131]
8. Establish binding and effective firewalls between public health service providers on one hand and immigration enforcement authorities and other security actors on the other, and make sure that firewalls are respected.[132] Ensure that immigration authorities do not carry out enforcement operations in or near medical facilities or premises.[133]
9. Ensure that detained migrants are held in conditions that satisfy essential health standards and that they have access to essential healthcare services free of charge and without discrimination, including services that address sexual and reproductive health needs and mental health conditions.[134]

Principle 13

Safeguard the right of migrants to an adequate standard of living.

Guidelines

1. Take measures to ensure that migrants enjoy an adequate standard of living, including when they are in temporary locations such as reception facilities and informal camps. Ensure that such facilities are accessible to all migrants, including children, persons with disabilities, older persons, and pregnant, new and nursing mothers. An adequate standard of living implies:[135]
   - Adequate and safe food sufficient in quantity and quality to satisfy an individual's dietary needs, including the specific dietary needs of pregnant women, nursing mothers and children.
   - Safe drinking water and culturally acceptable sanitation.
   - Adequate and appropriate clothing.
   - Adequate housing.
   - The continuous improvement of living conditions.
2. Guarantee migrants access to shelter. Shelter facilities should be adequate to meet

Principle 13

Safeguard the right of migrants to an adequate standard of living

migrants' needs, including the right to privacy, and should protect them from threats to their safety.[136] Migrants should be entitled to carry out necessary improvements, including to temporary shelters and informal camps. National housing action plans should take migrants into account, regardless of their status.[137]

3. Ensure that any evictions or planned relocations of migrants comply fully with international human rights law and only occur after through effective consultation with those who will be affected. Evictions should seek the full, prior and informed consent of those who are being evicted, should respect due process safeguards as well as general principles of reasonableness and proportionality, and should only take place after alternatives to eviction have been explored in consultation with the affected persons. Take steps to ensure that, before as well as during and after an eviction, migrants are formally entitled to receive prompt and accurate information about, inter alia: their situation; their rights; applicable legal procedures and remedies; possible consequences if they fail to comply with these procedures; the location of proposed reception centres or relocation sites and their condition; and the contact addresses of institutions that can advise them, including legal aid providers, ombuds offices and other relevant civil society organizations. Strictly ensure that migrants are not subjected to forced evictions, which have been recognized as gross violations of human rights.[138]
4. Establish effective and binding firewalls between public and private service providers and public or private housing providers on one hand, and immigration enforcement authorities on the other. Ensure that irregular migrants are never criminalized for exercising their right to an adequate standard of living, and that private actors such as landlords or civil society organizations are also not criminalized when they assist migrants to exercise this right.[139] Ensure that migrants, regardless of their status, can access shelters for the homeless.[140]
5. Migrants should not be obliged to stay in closed shelter facilities, jails or immigration detention centres, whether these are operated by government or private actors. Residential facilities for migrants should not restrict migrants' day-to-day movements unnecessarily. It is not permissible to restrict the movement of women, children, LGBTI migrants, persons with disabilities, or other groups of migrants on the grounds that they might face sexual, gender-based or other violence or harm inside or outside a facility. Take steps to avoid and prevent migrants – especially women, children, LGBTI migrants and persons with disabilities – from being de facto restricted in their movements due to fear of sexual, gender-based or other violence or harms, inside or outside the facility.[141]

Principle 14

Guarantee the right of migrants to work, in just and favourable conditions.

Guidelines

1. Ensure that every person has the right to work and is entitled to just and favourable conditions of work, without discrimination of any kind.[142] Develop appropriate and gender responsive policies and interventions to protect the rights of all migrants in the labour market, including their access to decent work and livelihoods.[143]
2. Ensure that migrants do not suffer discrimination and enjoy equality of treatment with nationals. All workers without distinction should enjoy equal terms and conditions of employment with respect, inter alia, to wages, workplace rights, social representation including trade union rights, recognition of skills and qualifications, and social protection.[144] Take steps to ensure that migrants do not suffer occupational discrimination, recognizing that many, especially migrant women, are compelled to work in the informal economy and are often excluded from the protection of national labour laws.[145] Take appropriate measures to prevent discrimination against women migrant workers on the grounds of family status, marital status, legal partnership

Principle 14

Guarantee the right of migrants to work in just and favourable conditions

status, pregnancy or having children, including the prohibition of dismissal on such grounds.[146]

3. Strengthen the authority and/or capacity of labour inspectorates and labour inspection services as required to ensure that they are able to supervise the working conditions of migrants in all sectors. Establish binding and effective firewalls between complaint mechanisms and labour inspection services on one hand, and immigration enforcement authorities on the other, and ensure firewalls are respected.[147]
4. Establish effective complaint mechanisms to ensure that workers, regardless of their nationality, and migration and residence status, can lodge complaints against employers and obtain remedy (including unpaid wages or compensation) if violations of labour rights have been committed. Ensure that migrants, regardless of their migration status, have unrestricted and effective access to judicial remedies, and to reparation for any violation of their workplace rights, without fear of reprisals or expulsion. All migrants should be entitled to contribute to and benefit from workers' compensation schemes (for occupational injuries or accidents) without discrimination.[148]
5. Act to protect all migrants from abusive and fraudulent recruitment practices. Regulate labour recruiters effectively and guarantee that migrants are not compelled to pay recruitment fees or related costs. Ensure that the ILO General Principles and Operational Guidelines for Fair Recruitment are implemented.[149]

Principle 15

Protect the right of migrants to education

Guidelines

1. Develop procedures, mechanisms and partnerships to ensure that all migrant children enjoy effective access to adequate and appropriate education at all levels, including early childhood, primary education – which shall be free and compulsory, secondary and higher education, as well as vocational and language training, on equal terms with nationals.[150] Discrimination on recognized grounds should be absent from all aspects of education, including, inter alia, examinations, qualification certification, vocational training, and financial subsidies. National plans on education and training should address the needs of all migrant students.
2. Establish binding and effective firewalls between schools and other education service providers on one hand, and immigration enforcement authorities on the other. Instruct administrators, teachers and parents that they are not required to report or share data on the regular or irregular status of pupils or their parents.[151] Ensure that immigration authorities do not carry out enforcement operations in or near schools or other education premises.[152]
3. Introduce or extend recognition of migrants' educational and vocational qualifications as well as measures that enable migrants to transfer their educational achievements.[153]
4. Include in school and college curricula content that promotes intercultural awareness and dialogue between migrant and host communities, as well as understanding of the situation and rights of migrants.[154] Provide targeted training to educational personnel at all levels with the objective of fostering respect for cultural diversity and the human rights of migrants.
5. Assist migrants to have access to vocational training and benefit from lifelong learning opportunities that help them acquire the knowledge and skills they need to participate fully in society.[155]

Principle 16

Uphold migrants' right to information.

Guidelines

1. Migrants have the right to seek, receive and impart information, in a language they understand and in formats they can access.[156] Make every effort to ensure that migrants are able to obtain accurate and reliable news and information about their rights and their situation via media of their choice. Ensure that information for migrant children is provided in age-appropriate language and formats.[157]
2. Migrants need information in order to take informed decisions, inter alia about migration routes, means of travel, and conditions of entry and stay. Information campaigns for migrants should:
   - Be developed in consultation with migrants, other affected individuals, and civil society and community organizations in countries of origin, transit and destination.
   - Provide information about their human rights and promote safe migration routes. Campaigns should not focus mainly or solely on preventing movement.[158]
   - Never deliberately or indirectly foster an anti-migrant environment or perpetuate negative stereotypes about migrants.
3. Provide access to the internet as a tool for migrants to exercise and protect their human rights.[159] Promote new forms of information sharing that migrants can use to plan their journeys in safety and dignity, keep in touch with relatives, share their experience, and access complaints mechanisms to report various forms violence, including sexual and gender-based violence and other forms of human rights violations and abuse confidentially. Ensure that at reception centres migrants can retain and access their communication equipment.
4. To safeguard the right to information and the protection of personal data, respect and protect migrants' online privacy. It is not permissible to track, collect, store or share data on migrants' journeys, their location, their digital communications, or those who assist them, with the objective of limiting migrants' human rights.[160]
5. Promote a safe and enabling environment for all media professionals, citizen journalists and other news sources. They should be allowed to collect and broadcast independent and accurate information and analysis on the movements and situation of migrants without undue interference. End impunity for attacks on amateurs and professionals who report on such issues.[161]

Principle 17

Ensure that all responses to migration, including large or mixed movements, are monitored and accountable.

Guidelines

1. Establish or strengthen independent internal and external mechanisms to monitor the human rights impact of laws, policies and practices relevant to migrants.[162] Publish monitoring reports that reinforce transparency and accountability (while protecting migrants' confidentiality).
2. Ensure that the mandate of independent monitoring bodies is adequate to achieve this purpose. National human rights institutions, ombuds offices, national preventive mechanisms and other relevant investigative and monitoring bodies should be empowered to visit all locations, including places of detention, to interview migrants as well as officials privately, and obtain promptly all the information they need to monitor the human rights of migrants and the conduct of institutions that are responsible for their management and care.[163] Permit civil society actors working with or on behalf of migrants to participate in monitoring and evaluating the human rights impact of governance measures.
3. Present detailed information on the human rights of migrants to all relevant United Nations and regional human rights mechanisms, including United Nations human rights treaty-monitoring bodies, special procedures of the Human Rights Council and

Principle 17

Ensure that all responses to migration, including large or mixed movements, are monitored and accountable.

to the universal periodic review process.[164] Ensure that mechanisms, such as national mechanisms for reporting and follow-up, are put in place to implement the recommendations of national, regional and international monitoring bodies.[165]

4. Establish complaint mechanisms for migrants and inform migrants of their existence. They should protect migrants from retribution, inter alia by means of firewalls.[166] Ensure that all alleged violations of migrants' human rights are investigated promptly, impartially and independently; prosecute through a fair trial State or non-State actors who have committed crimes.[167]
5. Investigate and prosecute corruption by immigration officials as well as the involvement or complicity of officials in abuses of migrants' human rights, and ensure that legislation and resources are in place for these purposes.[168]
6. Provide effective, independent and timely remedies and reparation. These should reflect the variety of human rights violations that migrants experience. Remedies must be awarded by a judicial or similarly independent, impartial and effective mechanism, and should provide adequate and comprehensive reparation.[169]
7. Ensure that non-State actors are accountable. This includes non-State actors who may be engaged by States such as private security companies, military contractors, private transport companies, as well as other private actors who participate in: search and rescue activities; the application of entry restriction measures; pre-departure screening; decisions on access to transportation; service provision; and the operation of detention facilities.[170] Take appropriate steps to prevent, investigate, punish and redress human rights abuse committed by them. Specific mechanisms should be established to ensure their accountability and guarantee that migrants who are victims of human rights abuses have access to judicial remedy.

Principle 18

Respect and support the activities of human rights defenders who promote and protect the human rights of migrants.

Guidelines

1. Provide, in law and in practice, a safe, accessible and enabling environment for individuals and organizations that work to promote or protect the human rights of migrants.[171] Do not criminalize or otherwise penalize the provision of support and assistance to migrants.[172] Ensure that the rights of human rights defenders are not violated or curtailed because of the work they do.[173] Specifically protect human rights defenders who work to defend the rights of migrant women, and migrants who defend the rights of other migrants.
2. Establish public policies and programmes that sustainably support and protect human rights defenders in all stages of their work. Any limitations placed on their activities, as individuals or as part of civil society organisations, must be in accordance with international standards.[174] Ensure that legislation which affects the activities of human rights defenders, including legislation on public safety and public order and legislation and procedures for registering and funding civil society organizations, is consistent with international human rights law.[175]
3. Take all necessary measures to ensure that human rights defenders are protected from violence, retaliation, threats including threats of deportation, discrimination, and other kinds of pressure or arbitrary action by State or non-State actors as a consequence of their work.[176] Ensure that they are able to communicate to non-governmental or intergovernmental organisations, and international and regional human rights bodies, without fear of intimidation or reprisal.[177]
4. Investigate and prosecute any attacks by State or non-State actors against migrants' human rights defenders or against their families, associates or legal representatives.[178]
5. Protect in law any person who discloses information about migrants' human rights that at the time of disclosure they reasonably believe is (a) true; and (b) threatens or

Principle 18

Respect and support the activities of human rights defenders who promote and protect the human rights of migrants.

harms a specific public interest. Threats to a public interest might include, inter alia, a violation of national or international law, an abuse of authority, waste, fraud, or harm to the environment, public health or public safety. Ensure oversight mechanisms exist that are adequate to protect, investigate, and provide redress and compensation, as appropriate.[179]

6. Publicly recognize the important role of human rights defenders and the legitimacy of their work. Condemn publicly all instances of violence, discrimination, intimidation or reprisals against them and underline that such practices can never be justified.[180]

Principle 19

Improve the collection of disaggregated data on the human rights situation of migrants while protecting personal data and their right to privacy.

Guidelines

1. Undertake and support quantitative and qualitative research on migrants' experiences to: provide a sound evidence base for migration policies; measure trends; raise awareness of risks; and prevent and sanction abuses of migrants' human rights. Seek the consent of migrants when their situation and experiences are being included in research and involve them in research that is undertaken. Research priorities include, inter alia:
    - Data on the number and circumstances of migrants in situations of vulnerability.
    - Analysis of why and how migrants move from and into situations of vulnerability, including the factors that trigger migration and influence migrants' decision-making.
    - Quantitative data, inter alia on: the number, age and sex of migrants who cross maritime, land or air borders; the number of migrants who are killed, injured, or go missing; the number of migrants who are victims of crime or enforced disappearance while on the move.[181]
    - Quantitative and qualitative data and indicators on immigration detention and alternatives to detention that have been explored and the reasons why specific alternatives have been adopted or discarded.
    - Data on complaints, investigations, prosecutions, and convictions with regard to all human rights violations perpetrated by State or non-State actors against migrants.[182]
    - Data, including qualitative data, on the lawfulness and sustainability of returns, including the experiences and intentions of migrants who have been returned to their homes or to third countries.
2. Disaggregate data on the human rights situation of migrants, by age and sex and by other relevant variables as required, such as migratory status, religion or belief, ethnicity, disability, sexual orientation or gender identity, or minority status.[183]
3. Work collaboratively to collect reliable data on respect for migrants' human rights, inter alia by standardizing the indicators and variables used internationally to monitor this issue.
4. Ensure that research and data collection methodologies are firmly grounded in ethical principles. Research and data collection should not re-traumatize or otherwise harm migrants, and should comply with international standards and principles on protection of personal data.[184] Information should be permanently and irreversibly anonymized both to protect privacy rights and to ensure that it cannot be used for immigration enforcement purposes. Ensure that digital biometric technologies are never employed to facilitate discriminatory profiling of migrants, or to increase their vulnerability to surveillance, and that information is not used, stored or processed in

Principle 19

Improve the collection of disaggregated data on the human rights situation of migrants while protecting personal data and their right to privacy

a manner that can put individuals at risk.[185]

5. Uphold the right of all migrants to privacy and ensure protection from arbitrary or unlawful interference with their privacy, family, home or correspondence.[186] Monitor the collection of all data on migrants (including biometric data) to ensure they are obtained lawfully, and that their storage, transfer and disposal comply with international standards and best practice on data protection and privacy.[187] Personal data, including biometric data, should be handled in a manner that protects confidentiality and gathering and holding of personal information on computers, data banks or other devices, whether by public authorities or private individuals or bodies must be regulated by law. The security of such data must be strongly protected to prevent unauthorized access, loss, or damage and measures should be developed to ensure the access of all migrants to their personal data, including data that are stored in automatic data files, and to enable migrants to request rectification or elimination of incorrect or wrongly held data.[188]

Principle 20

Ensure human rights-based and gender-responsive migration governance

Guidelines

1. Take steps to ensure that all policies that bear on human rights aspects of migration are coherent, by requiring all departments and offices of government to adopt an integrated and coordinated approach, locally, nationally, regionally and internationally.[189]
2. Establish or strengthen multi-stakeholder partnerships and cooperation for the purpose of upholding the human rights of all migrants. Stakeholders include national human rights institutions, intergovernmental, international and regional organizations, States, civil society organizations including representative migrants' associations, women's organizations, trade unions, representative employers' organizations, and private sector actors, at local, national, regional and international level.[190] Establish terms and conditions for cooperation and coordination, and allocate to stakeholders clear areas of responsibility, inter alia with respect to referral procedures and information exchange.[191]
3. Promote international cooperation in order to address the root causes and drivers of migration in a rights-based and sustainable manner. Ensure that all responses designed to manage or mitigate the drivers of migration, including those associated with climate change and environmental degradation, comply with international human rights law and standards. Develop and monitor these responses with the participation of migrants and their communities.[192]
4. Promote safe and accessible pathways for migration. Develop migration policies through holistic approaches that take into account the demand for labour migration at all skill levels in receiving societies, family reunification and education-related opportunities amongst others, and ensure the availability of humanitarian pathways to entry for migrants including private sponsorship.[193]
5. Establish effective mechanisms to provide legal status to migrants who are unable to return, including those who cannot be removed on international human rights grounds.[194] Consider regularizing within a reasonable period of time the status of migrants in an irregular situation, in order to address their needs and secure their rights.[195]
6. Promote the inclusion of migrants in receiving societies.[196] Develop integration policies, practices, institutions and partnerships that support inclusion, promote social and economic equality, and foster cultural diversity. To this end, pool skills across the public and private sector, in civil society and migrant communities.

III. How international law informs the Principles

2. The Principles in the present document are derived from international human rights law and related standards. Selected extracts of relevant international law as well as relevant regional standards are listed.

3. The Principles also draw on the general comments of international human rights law treaty bodies, United Nations resolutions and international and regional case law. While these documents are referenced in the annotations to the Principles and Guidelines, they are not separately referenced for reasons of space.

Principle 1

Ensure that human rights are at the centre of efforts to address migration in all its phases, including responses to large and mixed movements.

Normative framework

- Several provisions in the Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime, address human rights. In the preamble, States parties affirm that they are "convinced of the need to provide migrants with humane treatment and full protection of their rights". In article 2, the Protocol affirms that its purpose is "to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, while protecting the rights of smuggled migrants". Article 4 affirms that the Protocol shall apply "to the prevention, investigation and prosecution [of migrant smuggling] … as well as to the protection of the rights of persons who have been the object of such offences". Article 14 (1) affirms that training should be undertaken for the purpose of preventing migrant smuggling and to secure "the humane treatment of migrants who have been the object of such conduct, while respecting their rights as set forth in this Protocol". Article 14 (2) affirms that States parties shall cooperate with each other and with competent international organizations, non-governmental organizations, other relevant organizations and civil society actors, inter alia, to provide training on "the humane treatment of migrants and the protection of their rights". Article 16 affirms: "In implementing this Protocol, each State Party shall take, consistent with its obligations under international law, all appropriate measures, including legislation if necessary, to preserve and protect the rights of persons."
- Article 2 (b) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, affirms that its "purpose" is "to protect and assist the victims of such trafficking, with full respect for their human rights".

Regional norms

- Article 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe affirms: "The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention."
- Article 1 of the American Convention on Human Rights of the Organization of American States affirms: "The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise 'of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition."
- Article 2 of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status."

Principle 1

Ensure that human rights are at the centre of efforts to address migration in all its phases, including responses to large and mixed movements

- Article 1 of the Arab Charter on Human Rights of the League of Arab States affirms: "The present Charter seeks … to place human rights at the centre of the key national concerns." Article 3 affirms: "Each State party … undertakes to ensure to all individuals subject to its jurisdiction the right to enjoy the rights and freedoms set forth herein."

Principle 2

Counter all forms of discrimination against migrants

Normative framework

- Article 2 of the Universal Declaration of Human Rights affirms: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty." Article 7 further affirms that all persons are "entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination".
- The core UN human rights treaties include a provision prohibiting discrimination. The provision affirms that every right set out in the convention concerned shall apply to every person without discrimination of any kind, with respect to race, colour, sex, language, religion, political opinion, national or social origin, birth and other status. See: ICCPR, art. 2; ICESCR, art.2 (2); ICERD, art. 2; Convention on the Elimination of All Forms of Discrimination against Women, art. 2; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, art. 1; Convention on the Rights of the Child, art. 2; ICMW, art. 1 (1); Convention on the Rights of Persons with Disabilities arts. 3 (b) and 5; and ICPPED, art. 2.
- Article 1 of ICERD states that "racial discrimination" means "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life". Article 2, on its main purpose, affirms: "States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races." See also articles 4, 5 and 7.
- Article 20 (2) of ICCPR affirms: "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." Article 26 affirms: "All persons are equal before the law.… [and] the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground."
- Article 2 (2) of ICESCR affirms: "The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."
- Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women states that "discrimination against women" means "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural,

Principle 2

Counter all forms of discrimination against migrants

civil or any other field". Article 2 affirms: "States Parties condemn discrimination against women in all its forms [and] agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women."

Regional norms

- Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe affirms: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."
- The preamble to Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms affirms that the parties are "resolved to take further steps to promote the equality of all persons through the collective enforcement of a general prohibition of discrimination by means of the Convention".
- Article 1 of the American Convention on Human Rights of the Organization of American States affirms: "The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition."
- Article 25 of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "States Parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood."
- Article 3 of the Arab Charter on Human Rights of the League of Arab States affirms: "Each State Party to the present Charter undertakes to ensure to all individuals subject to its jurisdiction the right to enjoy the rights and freedoms set forth herein, without distinction on grounds of race, colour, sex, language, religious belief, opinion, thought, national or social origin, wealth, birth or physical or mental disability."
- Article 21 (1) of the Charter of Fundamental Rights of the European Union affirms: "Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited."

Principle 3

Ensure that migrants have access to justice

International norms

- Article 7 of UDHR affirms: "All are equal before the law and are entitled without any discrimination to equal protection of the law." Article 10 affirms: "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal."
- Article 2 (3) (a) of ICCPR affirms that each State party to the Convention shall "ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity". Article 2 (3) (c) affirms that each State party will "ensure that the competent authorities shall enforce such remedies when granted". Article 14 affirms that "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by

Principle 3

Ensure that migrants have access to justice

law".

- Article 5 (a) of ICERD affirms that States parties shall guarantee the right of everyone, without any distinction, "to equal treatment before the tribunals and all other organs administering justice". Article 6 affirms: "States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions."
- Article 18 of ICMW affirms: "Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals." Article 83 affirms: "any person whose rights or freedoms as herein recognized are violated shall have an effective remedy"; "any persons seeking such a remedy shall have his or her claim reviewed and decided by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy"; and "the competent authorities shall enforce such remedies when granted".
- Article 12 of ICPPED affirms: "Each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation."
- Article 16 (1) (2) of the Convention Relating to the Status of Stateless Persons affirms: "A stateless person shall have free access to the Courts of Law on the territory of all Contracting States. A stateless person shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the courts, including legal assistance and exemption from *cautio judicatum solvi*."
- Article 6 (2) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affirms: "Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases: (a) Information on relevant court and administrative proceedings; (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence." Article 6 (3) affirms: "Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of: ... (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand". Article 6 (6) affirms: "Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered."

Regional norms

- Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe affirms: "everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law". Article 13 affirms the right to an effective remedy.
- Article 8 of the American Convention on Human Rights of the Organization of American States affirms: "Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law." Article 25 affirms: "Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their

Principle 3

Ensure that migrants have access to justice

official duties."

- Article 7 of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "Every individual shall have the right to have his cause heard. This comprises: (a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; (b) the right to be presumed innocent until proved guilty by a competent court or tribunal; (c) the right to defence, including the right to be defended by counsel of his choice; (d) the right to be tried within a reasonable time by an impartial court or tribunal."
- Article 11 of the Arab Charter on Human Rights of the League of Arab States affirms: "All persons are equal before the law and have the right to enjoy its protection without discrimination." Article 12 affirms that States "shall … guarantee every person subject to their jurisdiction the right to seek a legal remedy before courts of all levels."
- Article 20 of the Charter of Fundamental Rights of the European Union affirms: "Everyone is equal before the law." Article 47 affirms: "Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article. Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented. Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice."
- Article 15 (2) of the Convention on Action against Trafficking in Human Beings of the Council of Europe affirms: "Each Party shall provide, in its internal law, for the right to legal assistance and to free legal aid for victims under the conditions provided by its internal law."

Principle 4

Protect the lives and safety of migrants and ensure that all migrants facing risks to life or safety are rescued and offered immediate assistance

Normative framework

- Article 3 of UDHR affirms: "Everyone has the right to life."
- Article 6 (1) of ICCPR affirms: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." Article 4 affirms that no derogation of this principle is admissible, even during public emergencies.
- Article 6 of the Convention on the Rights of the Child affirms that "every child has the inherent right to life".
- Article 9 of ICMW affirms: "The right to life of migrant workers and members of their families shall be protected by law."
- Article 11 of the Convention on the Rights of Persons with Disabilities affirms: "States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters."
- Article 9 (1) (a) of the Protocol against the Smuggling of Migrants by Land, Sea and Air calls on States to "Ensure the safety and humane treatment of the persons on board". Article 16 (3) affirms: "Each State Party shall afford appropriate assistance to migrants whose lives or safety are endangered by reason of being the object of conduct set forth in article 6 of this Protocol." Article 6 (3) affirms: "Each State Party shall adopt such legislative and other measures as may be necessary to

Principle 4

Protect the lives and safety of migrants and ensure that all migrants facing risks to life or safety are rescued and offered immediate assistance

establish as aggravating circumstances to the offences … circumstances: (a) that endanger, or are likely to endanger, the lives or safety of the migrants concerned".

- Article 2 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affirms that the Protocol's purposes are to prevent and combat trafficking in persons, and to protect and assist the victims of such trafficking. Article 6 (5) affirms: "Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory."
- Article 98 of the Convention on the Law of the Sea affirms: "Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers: (a) to render assistance to any person found at sea in danger of being lost; (b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him; (c) after a collision, to render assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call. Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements cooperate with neighbouring States for this purpose."

Regional norms

- Article 2 (1) of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe affirms: "Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law." Paragraph 2 allows certain exceptions, when deprivation of life results from "the use of force which is no more than absolutely necessary: (a) in defence of any person from unlawful violence; (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; (c) in action lawfully taken for the purpose of quelling a riot or insurrection".
- Article 4 of the American Convention on Human Rights of the Organization of American States affirms: "Every person has the right to have his life respected. This right shall be protected by law."
- Article 4 of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right."
- Article 5 of the Arab Charter on Human Rights of the League of Arab States affirms: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."
- Article 2 (1) of the Charter of Fundamental Rights of the European Union affirms: "Everyone has the right to life. No one shall be condemned to the death penalty, or executed."

Principle 5

Ensure that all border governance measures protect human rights

Normative framework

- Article 13 of UDHR affirms: "Everyone has the right to freedom of movement and residence within the borders of each state. Everyone has the right to leave any country, including his own, and to return to his country."
- Article 12 (1) of ICCPR affirms: "Everyone lawfully within the territory of a State

Principle 5

Ensure that all border governance measures protect human rights

shall, within that territory, have the right to liberty of movement and freedom to choose his residence." Article 12 (2) affirms: "Everyone shall be free to leave any country, including his own." Article 12 (3) affirms: "The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant." Article 12 (4) affirms: "No one shall be arbitrarily deprived of the right to enter his own country."

- Article 5 (i) (ii) of ICERD affirms that every person, without discrimination of any type, shall enjoy "[t]he right to freedom of movement and residence within the border of the State" and "[t]he right to leave any country, including one's own, and to return to one's country".
- Article 8 (1) of ICMW affirms: "Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention." Article 79 affirms: "Nothing in the present Convention shall affect the right of each State Party to establish the criteria governing admission of migrant workers and members of their families. Concerning other matters related to their legal situation and treatment as migrant workers and members of their families, States Parties shall be subject to the limitations set forth in the present Convention."
- Article 18 of the Convention on the Rights of Persons with Disabilities affirms: "States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others."
- Article 26 of the Convention Relating to the Status of Stateless Persons affirms: "Each Contracting State shall accord to stateless persons lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances."
- Article 11 (1) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affirms: "Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons."
- Article 11 (1) of the Protocol against the Smuggling of Migrants by Land, Sea and Air affirms: "Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect the smuggling of migrants."

Regional norms

- Article 2 of Protocol 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe affirms: "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. Everyone shall be free to leave any country, including his own. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society."
- Article 22 of the American Convention on Human Rights of the Organization of American States affirms: "Every person lawfully in the territory of a State Party has

Principle 5

Ensure that all border governance measures protect human rights

the right to move about in it, and to reside in it subject to the provisions of the law. Every person has the right to leave any country freely, including his own. The exercise of the foregoing rights may be restricted only pursuant to a law to the extent necessary in a democratic society to prevent crime or to protect national security, public safety, public order, public morals, public health, or the rights or freedoms of others. The exercise of the rights recognized in paragraph 1 may also be restricted by law in designated zones for reasons of public interest."

- Article 12 of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law. Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions, provided for by law for the protection of national security, law and order, public health or morality."
- Article 27 of the Arab Charter on Human Rights of the League of Arab States affirms: "No one may be arbitrarily or unlawfully prevented from leaving any country, including his own."

Principle 6

Ensure that all returns fully respect the human rights of migrants and comply with international law

Normative framework

- Article 14 of UDHR affirms: "Everyone has the right to seek and to enjoy in other countries asylum from persecution."
- Article 7 of ICCPR affirms: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 13 affirms: "An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority."
- Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment affirms: "No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights."
- Article 22 of ICMW affirms: "Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually. Migrant workers and members of their families may be expelled from the territory of a State Party only in pursuance of a decision taken by the competent authority in accordance with law."
- Article 16 of ICPPED affirms: "No State Party shall expel, return ("refouler"), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights or of serious violations of international humanitarian law."
- Article 18 (5) of the Protocol against the Smuggling of Migrants by Land, Sea and Air affirms: "Each State Party involved with the return of a person who has been the

Principle 6

Ensure that all returns fully respect the human rights of migrants and comply with international law

object of conduct set forth in article 6 of this Protocol shall take all appropriate measures to carry out the return in an orderly manner and with due regard for the safety and dignity of the person."

- Article 8 (2) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affirms: "When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary."
- Article 31 (1) of the Convention Relating to the Status of Stateless Persons affirms: "The Contracting States shall not expel a stateless person lawfully in their territory save on grounds of national security or public order."

Regional norms

- Article 4 of Protocol 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe affirms: "Collective expulsion of aliens is prohibited." Article 1 of Protocol 7 to the European Convention for the Protection of Human Rights and Fundamental Freedoms affirms: "An alien lawfully resident in the territory of a State shall not be expelled therefrom except in pursuance of a decision reached in accordance with law and shall be allowed: (a) to submit reasons against his expulsion, (b) to have his case reviewed, and (c) to be represented for these purposes before the competent authority or a person or persons designated by that authority."
- Article 22 (5) – (9) of the American Convention on Human Rights of the Organization of American States, affirms: "No one can be expelled from the territory of the state of which he is a national or be deprived of the right to enter it. An alien lawfully in the territory of a State Party to this Convention may be expelled from it only pursuant to a decision reached in accordance with law. Every person has the right to seek and be granted asylum in a foreign territory, in accordance with the legislation of the state and international conventions, in the event he is being pursued for political offenses or related common crimes. In no case may an alien be deported or returned to a country, regardless of whether or not it is his country of origin, if in that country his right to life or personal freedom is in danger of being violated because of his race, nationality, religion, social status, or political opinions. The collective expulsion of aliens is prohibited."
- Article 12 of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with laws of those countries and international conventions. A non-national legally admitted in a territory of a State Party to the present Charter, may only be expelled from it by virtue of a decision taken in accordance with the law. The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups."
- Article 26 of the Arab Charter on Human Rights of the League of Arab States affirms: "Collective expulsion is prohibited under all circumstances." Article 28 affirms: "Everyone has the right to seek political asylum in another country in order to escape persecution."
- Article 18 of the Charter of Fundamental Rights of the European Union affirms: "The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community." Article 19 affirms: "Collective expulsions are prohibited. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading

Principle 6

Ensure that all returns fully respect the human rights of migrants and comply with international law

treatment or punishment."

Principle 7

Protect migrants from torture and all forms of violence and exploitation, whether inflicted by State or private actors

Normative framework

- Articles 4 and 5 of UDHR prohibit slavery or servitude as well as torture or other cruel, inhuman or degrading treatment or punishment.
- Article 9 (1) of ICCPR affirms that every person has the right to security of person. Article 7 affirms: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation." Article 8 prohibits slavery, servitude, and forced or compulsory labour.
- Article 2 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment affirms: "Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction."
- Article 5 (b) of ICERD prohibits racial discrimination in all its forms and affirms: "The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution."
- Article 19 (1) of the Convention on the Rights of the Child affirms that States Parties are obliged to take appropriate national, bilateral and multilateral measures to protect the child from all forms of violence, abuse, maltreatment or exploitation, including sexual exploitation and sexual abuse, sale and trafficking, forms of exploitation prejudicial to a child's welfare, and torture or other cruel, inhuman or degrading treatment or punishment. Articles 34, 35, 36 and 37 of the Convention and its Optional Protocols prohibit the sale of children, child prostitution and child pornography, and the involvement of children in armed conflict. Article 39 affirms: "States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts."
- Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women affirms that States Parties are obliged to "take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women".
- Article 10 of ICMW affirms: "No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 11 affirms: "No migrant worker or member of his or her family shall be held in slavery or servitude. No migrant worker or member of his or her family shall be required to perform forced or compulsory labour. Paragraph 2 of the present article shall not be held to preclude, in States where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court." Article 16 (2) affirms: "Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions." Article 16 (3) affirms: "Any verification by law enforcement officials of the identity of migrant workers or members of their families shall be carried out in accordance with procedure established by law."
- Article 6 (3) of the Protocol against the Smuggling of Migrants by Land, Sea and Air affirms: "Each State Party shall adopt such legislative and other measures as may be

Principle 7

Protect migrants from torture and all forms of violence and exploitation, whether inflicted by State or private actors

necessary to establish as aggravating circumstances to the offences established in accordance with paragraph 1(a), (b) (i) and (c) of this article and, subject to the basic concepts of its legal system, to the offences established in accordance with paragraph 2 (b) and (c) of this article, circumstances: (a) That endanger, or are likely to endanger, the lives or safety of the migrants concerned; or (b) That entail inhuman or degrading treatment, including for exploitation, of such migrants." Article 16 (2) affirms: "Each State Party shall take appropriate measures to afford migrants appropriate protection against violence that may be inflicted upon them, whether by individuals or groups, by reason of being the object of conduct set forth in article 6 of this Protocol."

- Article 3 (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children defines trafficking of persons as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs". Article 9 (5) affirms: "States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking."
- Article 1 (1) of the Protocol of 2014 to the Forced Labour Convention of the ILO calls on each Member to "take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour".

Regional norms

- Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe prohibits torture. Article 4 prohibits slavery and forced labour.
- Clauses 1 and 2 of Article 5 of the American Convention on Human Rights of the Organization of American States affirm: "Every person has the right to have his physical, mental, and moral integrity respected. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment." Clauses 1 and 2 of Article 6 affirm: "No one shall be subject to slavery or to involuntary servitude, which are prohibited in all their forms, as are the slave trade and traffic in women. No one shall be required to perform forced or compulsory labour."
- Article 5 of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited".
- Article 8 of the Arab Charter on Human Rights of the League of Arab States affirms: "No one shall be subjected to physical or psychological torture or to cruel, degrading, humiliating or inhuman treatment." Article 10 prohibits slavery and trafficking in human beings, forced labour, the exploitation of children in armed conflicts and any other forms of exploitation.
- Article 3 of the Charter of Fundamental Rights of the European Union provides: "Everyone has the right to respect for his or her physical and mental integrity." Article 4 prohibits torture and inhuman or degrading treatment or punishment and article 5 affirms: "No one shall be held in slavery or servitude. No one shall be required to perform forced or compulsory labour. Trafficking in human beings is prohibited." Article 6 (1) affirms: "Everyone has the right to liberty and security of person."

Principle 8

Uphold the right of migrants to liberty and protect them from all forms of arbitrary detention. Make targeted efforts to end unlawful or arbitrary immigration detention of migrants. Never detain children because of their migration status or that of their parents.

Normative framework

- Article 3 of UDHR affirms: "Everyone has the right to life, liberty and security of person." Article 9 affirms: "No one shall be subjected to arbitrary arrest, detention or exile."
- Article 9 (1) of ICCPR affirms: "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law." Article 10 (1) affirms: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."
- Article 16 (1) of ICMW affirms: "Migrant workers and members of their families shall have the right to liberty and security of person." Article 16 (4) affirms: "Migrant workers and members of their families shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law."
- Article 37 (b) of the Convention on the Rights of the Child affirms: "No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time".
- Article 1 of ICPPED affirms: "No one shall be subjected to enforced disappearance." Article 2 (1) defines enforced disappearance as "arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law". Article 17 affirms: "No one shall be held in secret detention." Article 23 affirms: "Each State Party shall ensure that the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty includes the necessary education and information regarding the relevant provisions of this Convention, in order to: (a) Prevent the involvement of such officials in enforced disappearances."
- Article 5 of the Protocol against the Smuggling of Migrants by Land, Sea and Air affirms: "Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of conduct set forth in article 6 of this Protocol." Article 16 (5) affirms: "In the case of the detention of a person who has been the object of conduct set forth in article 6 of this Protocol, each State Party shall comply with its obligations under the Vienna Convention on Consular Relations, where applicable, including that of informing the person concerned without delay about the provisions concerning notification to and communication with consular officers."
- Article 36 (1) (b) of the Vienna Convention on Consular Relations affirms: "With a view to facilitating the exercise of consular functions relating to nationals of the sending State: if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this sub-paragraph."

Principle 8

Uphold the right of migrants to liberty and protect them from all forms of arbitrary detention. Make targeted efforts to end unlawful or arbitrary immigration detention of migrants. Never detain children because of their migration status or that of their parents.

Regional norms

- Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe affirms: "Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: (a) the lawful detention of a person after conviction by a competent court; (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law; (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority; (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants; (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition."
- Clauses 1 and 2 of Article 7 of the American Convention on Human Rights of the Organization of American States affirms: "Every person has the right to personal liberty and security. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto." Article 7 (3) affirms: "No one shall be subject to arbitrary arrest or imprisonment." Article 7 (4) affirms: "Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him."
- Article 6 of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained."
- Article 14 the Arab Charter on Human Rights of the League of Arab States affirms the right of every person to liberty and security of person and that "no one shall be subjected to arbitrary arrest, search or detention without a legal warrant".
- Article 26 of the Convention on Action against Trafficking in Human Beings of the Council of Europe affirms: "Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so."
- Article 6 of the Charter of Fundamental Rights of the European Union affirms: "Everyone has the right to liberty and security of person."

Principle 9

Ensure the widest protection of the family unity of migrants, facilitate family reunification, prevent arbitrary or unlawful interference in the right of migrants to enjoy private and family life.

Normative framework

- Article 16 (3) of UDHR affirms: "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State." Article 12 affirms: "No one shall be subjected to arbitrary interference with his…family."
- Article 23 (1) of ICCPR affirms: "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State." Article 17 affirms: "No one shall be subjected to arbitrary or unlawful interference with his … family."
- Article 10 (1) of ICESCR affirms: "The States Parties to the present Covenant recognize that: The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children."
- Article 5 of the Convention on the Rights of the Child affirms the fundamental role of the family in the protection of a child's rights and declares: "States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention." Article 8 affirms "the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference". Article 16 affirms: "No child shall be subjected to arbitrary or unlawful interference with his or her … family." Article 9 affirms: "States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child." Article 10 affirms that "family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner [and] the submission of such request shall entail no adverse consequences for the applicants and for the members of their family".
- ICMW places the family at the centre of the Convention. The rights it sets out are held directly by migrant workers and their families. Article 44 affirms: "States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers. States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers."
- Article 13 (1) of the Migrant Workers (Supplementary Provisions) Convention of the International Labour Organization affirms: "A Member may take all necessary measures which fall within its competence and collaborate with other Members to facilitate the reunification of the families of all migrant workers legally residing in its territory."

Regional norms

- Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe affirms: "Everyone has the right to respect for his private and family life."
- Article 17 of the American Convention on Human Rights of the Organization of American States affirms: "The family is the natural and fundamental group unit of society and is entitled to protection by society and the state."
- Clauses 1 and 2 of Article 15 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of the Organization of American States affirm: "The family is the natural and fundamental

Principle 9

Ensure the widest protection of the family unity of migrants, facilitate family reunification, prevent arbitrary or unlawful interference in the right of migrants to enjoy private and family life.

element of society and ought to be protected by the State, which should see to the improvement of its spiritual and material conditions. Everyone has the right to form a family, which shall be exercised in accordance with the provisions of the pertinent domestic legislation."

- Clauses 1 and 2 of Article 18 of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirm: "The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community."
- Article 21 of the Arab Charter on Human Rights of the League of Arab States affirms: "No one shall be subjected to arbitrary or unlawful interference with regard to his privacy, family, home or correspondence, nor to unlawful attacks on his honour or his reputation."
- Article 7 of the Charter of Fundamental Rights of the European Union affirms: "Everyone has the right to respect for his or her private and family life, home and communications."

Principle 10

Guarantee the human rights of all children in the context of migration, and ensure that migrant children are treated as children first and foremost.

Normative framework

- Article 25 (2) of the UDHR affirms: "Motherhood and childhood are entitled to special care and assistance."
- Article 1 of the Convention on the Rights of the Child declares that the rights the Convention sets out apply to every child, meaning "every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier". Article 2 affirms: "States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status." Article 3 affirms: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision." Article 6 affirms that States "shall ensure to the maximum extent possible the survival and development of the child". Article 12 affirms that States shall assure "to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child".
- Article 24 of ICCPR affirms: "Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State. Every child shall be registered immediately after birth and shall have a name. Every child has the right to acquire a nationality."
- Article 10 (3) of ICESCR affirms: "Special measures of protection and assistance

Principle 10

Guarantee the human rights of all children in the context of migration, and ensure that migrant children are treated as children first and foremost

should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions."

- Article 29 of ICMW affirms: "Each child of a migrant worker shall have the right to a name, to registration of birth and to a nationality." Article 17 (6) affirms: "Whenever a migrant worker is deprived of his or her liberty, the competent authorities of the State concerned shall pay attention to the problems that may be posed for members of his or her family, in particular for spouses and minor children."
- Article 18 (2) of the Convention on the Rights of Persons with Disabilities affirms: "Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents."
- Article 25 (a) of ICPPED affirms: "Each State Party shall take the necessary measures to prevent and punish under its criminal law: The wrongful removal of children who are subjected to enforced disappearance, children whose father, mother or legal guardian is subjected to enforced disappearance or children born during the captivity of a mother subjected to enforced disappearance."
- Article 16 (4) of the Protocol against the Smuggling of Migrants by Land, Sea and Air affirms: "In applying the provisions of this article, States Parties shall take into account the special needs of women and children."
- Article 6 (4) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affirms: "Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care." Clauses (c) and (d) of Article 3 distinguish the trafficking of children from the trafficking of adults. Article 10 (2) affirms that "training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with nongovernmental organizations, other relevant organizations and other elements of civil society".

Regional norms

- Article 19 of the American Convention on Human Rights of the Organization of American States affirms: "Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state."
- Article 18 (3) of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "The State shall ensure…the protection of the rights of the…the child as stipulated in international declarations and conventions."
- Article 33 (2) of the Arab Charter on Human Rights of the League of Arab States affirms: "The State … shall also ensure the necessary protection and care for … children … and shall provide adolescents and young persons with the best opportunities for physical and mental development".
- Article 24 of the Charter of Fundamental Rights of the European Union affirms: "Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests."

Box 11

Protection and rights of migrant women and girls

Normative framework

- Article 25 (2) of UDHR affirms: "Motherhood [is] entitled to special care and assistance."
- The relevance Convention on the Elimination of All Forms of Discrimination against Women is relevant.
- Article 3 of ICCPR affirms: "The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant."
- Article 10 (2) of ICESCR affirms: "The States Parties to the present Covenant recognize that: (2) Special protection should be accorded to mothers during a reasonable period before and after childbirth."
- Article 16 (4) of the Protocol against the Smuggling of Migrants by Land, Sea and Air affirms: "In applying the provisions of this article, States Parties shall take into account the special needs of women."
- Article 6 (4) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affirms: "Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons." Article 10 (2) affirms that "training should also take into account the need to consider human rights and child- and gender-sensitive issues".

Regional norms

- Article 18 (3) of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions."
- Article 2 of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa of the African Union affirms that all States Parties commit to combat "all forms of discrimination against women through appropriate legislative, institutional and other measures".
- Article 4 (3) of the Convention on preventing and combating violence against women and domestic violence of the Council of Europe affirms that the parties will guarantee the implementation of the measures of the Convention, in particular measures to protect the rights of victims, without discrimination on any ground, including national origin or migrant or refugee status.
- Article 9 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women of the Organization of American States affirms: "With respect to the adoption of the measures in this Chapter, the States Parties shall take special account of the vulnerability of women to violence by reason of, among others, their race or ethnic background or their status as migrants, refugees or displaced persons. Similar consideration shall be given to women subjected to violence while pregnant or who are disabled, of minor age, elderly, socioeconomically disadvantaged, affected by armed conflict or deprived of their freedom."
- Article 23 of the Charter of Fundamental Rights of the European Union affirms: "Equality between men and women must be ensured in all areas, including employment, work and pay."

Principle 23

Ensure that all migrants enjoy the highest attainable standard of physical and mental health

Normative framework

- Article 25 of UDHR affirms: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services."
- Article 12 of ICESCR affirms: "The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness."
- Article 5(e) (iv) of ICERD affirms that States Parties shall prohibit and eliminate racial discrimination in all its forms, in order to guarantee the right to public health and to medical care".
- Article 3 (3) of the Convention on the Rights of the Child affirms: "States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision." Article 24 affirms "the right of the child to the enjoyment of the highest attainable standards of health and to facilities for the treatment of illness and rehabilitation of health".
- Article 28 of ICMW affirms: "Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused them by reason of any irregularity with regard to stay or employment."
- Article 12 (1) of the Convention on the Elimination of All Forms of Discrimination Against Women affirms: "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning."
- Article 25 of the Convention on the Rights of Persons with Disabilities affirms: "States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability."
- Article 6 (3) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affirms: "Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of: medical, psychological and material assistance."

Regional norms

- Article 16 of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "Every individual shall have the right to enjoy the best attainable state of physical and mental health. States Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick."
- Article 14 of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa of the African Union affirms that States Parties will

Principle 12

Ensure that all migrants attain the highest attainable standard of physical and mental health

protect "the right to health of women, including sexual and reproductive health".

- Article 10 (1) of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of the Organization of American States affirms: "Everyone shall have the right to health, understood to mean the enjoyment of the highest level of physical, mental and social well-being."

Principle 13

Safeguard the right of migrants to an adequate standard of living

Normative framework

- Article 25 (1) of UDHR affirms: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control." Article 22 affirms: "Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality."
- Article 11 (1) of ICESCR affirms: "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent." Article 9 affirms: "The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance."
- The Convention Relating to the Status of Stateless Persons indirectly extends the right to an adequate standard of living by extending citizens' social benefits to stateless persons (Articles 21, 23, and 24).
- Article 6 (4) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affirms: "Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care."

Regional norms

- Clauses 2 and 3 of Article 13 of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirm: "Every citizen shall have the right of equal access to the public service of his country. Every individual shall have the right of access to public property and services in strict equality of all persons before the law."
- Article 12 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of the Organization of American States affirms: "Everyone has the right to adequate nutrition which guarantees the possibility of enjoying the highest level of physical, emotional and intellectual development". Article 9 (1) affirms: "Everyone shall have the right to social security."

Principle 14

Guarantees the right of migrants to work, in just and favourable conditions

Normative framework

- Article 23 of UDHR affirms: "Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interests."
- Article 6 of ICESCR affirms "the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts". Article 7 affirms "the right of everyone to the enjoyment of just and favourable conditions of work".
- Article 5(e) (i) of ICERD affirms: "States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration".
- Article 25 (1) of ICMW affirms that migrant workers shall enjoy treatment not less favourable than that which applies to nationals with respect to remuneration and other conditions of work (such as overtime, hours of work, weekly rest, holidays, termination of employment, etc.) as well as other principles (such as the minimum age of employment). Article 25 (3) affirms: "States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of such irregularity."
- Chapter III of the Convention Relating to the Status of Stateless Persons affirms the right of stateless persons to gainful employment.

Regional norms

- Article 15 of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work."
- Article 6 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of the Organization of American States affirms: "Everyone has the right to work, which includes the opportunity to secure the means for living a dignified and decent existence by performing a freely elected or accepted lawful activity. The States Parties undertake to adopt measures that will make the right to work fully effective, especially with regard to the achievement of full employment, vocational guidance, and the development of technical and vocational training projects, in particular those directed to the disabled." Article 7 affirms that "everyone shall enjoy that right under just, equitable, and satisfactory conditions"
- Article 34 (2) of the Arab Charter on Human Rights of the League of Arab States affirms: "Every worker has the right to the enjoyment of just and favourable conditions of work."
- Article 15 (1) of the Charter of Fundamental Rights of the European Union affirms: "Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation." Article 31 affirms: "Every worker has the right to working conditions which respect his or her health, safety and dignity. Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to annual period of paid leave."

Principle 35

Protect the right of migrants to education

Normative framework

- Article 26 (1) of UDHR affirms: "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit."
- Article 5 (e) (v) of ICERD affirms: "In compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: the right to education and training."
- Article 13 of ICESCR affirms: "States Parties to the present Covenant recognize the right of everyone to education. They agree that education…shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups."
- Article 28 of the Convention on the Rights of the Child affirms: "States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need; (c) Make higher education accessible to all on the basis of capacity by every appropriate means; (d) Make educational and vocational information and guidance available and accessible to all children; (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries."
- Article 30 of ICMW affirms: "Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment."
- Article 6 (3) (d) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affirms: "Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of: (d) Employment, educational and training opportunities." Article 6 (4) affirms: "Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care."

Principle 15

Protect the right of migrants to education

- Article 22 of the Convention Relating to the Status of Stateless Persons affirms that stateless person shall receive the same treatment as nationals with respect to elementary and other education.
- Article 1 of the Convention Against Discrimination in Education of the UN Educational, Scientific and Cultural Organization prohibits any discrimination that has the "purpose or effect of nullifying or impairing equality of treatment in education and in particular: (a) of depriving any person or group of persons of access to education of any type or at any level; (b) of limiting any person or group of persons to education of an inferior standard; (c) … of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or (d) of inflicting on any person or group of persons conditions which are incompatible with the dignity of man".

Regional norms

- Article 2 of Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe affirms: "No person shall be denied the right to education."
- Article 17 (1) of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "Every individual shall have the right to education."
- Article 13 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of the Organization of American States affirms: "Everyone has the right to education… The States Parties to this Protocol recognize that in order to achieve the full exercise of the right to education: (a) Primary education should be compulsory and accessible to all without cost; (b) Secondary education in its different forms, including technical and vocational secondary education, should be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education; (c) Higher education should be made equally accessible to all, on the basis of individual capacity, by every appropriate means, and in particular, by the progressive introduction of free education; (d) Basic education should be encouraged or intensified as far as possible for those persons who have not received or completed the whole cycle of primary instruction."
- Article 41 of the Arab Charter on Human Rights of the League of Arab States affirms: "The eradication of illiteracy is a binding obligation upon the State and everyone has the right to education."
- Article 14 of the Charter of Fundamental Rights of the European Union affirms: "Everyone has the right to education and to have access to vocational and continuing training. This right includes the possibility to receive free compulsory education."

Principle 16

Uphold migrants' right to information

Normative framework

- Article 19 of UDHR affirms: "Everyone has the right to freedom of opinion and expression; this right includes …to seek, receive and impart information and ideas through any media and regardless of frontiers."
- Clauses 1 and 2 of Article 19 of ICCPR affirm: "Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." Article 17 affirms: "No one shall be subjected to arbitrary or unlawful interference with his privacy."
- Article 19 of ICPPED affirms: "Personal information, including medical and genetic

Principle 16

Uphold migrants' right to information

data, which is collected and/or transmitted within the framework of the search for a disappeared person shall not be used or made available for purposes other than the search for the disappeared person … The collection, processing, use and storage of personal information, including medical and genetic data, shall not infringe or have the effect of infringing the human rights, fundamental freedoms or human dignity of an individual." Article 18 affirms that "any person with a legitimate interest in this information, such as relatives of the person deprived of liberty, their representative or their counsel" shall have access to essential information. Article 20 affirms: "Only where a person is under the protection of the law and the deprivation of liberty is subject to judicial control may the right to information referred to in article 18 be restricted, on an exceptional basis, where strictly necessary and where provided for by law, and if the transmission of the information would adversely affect the privacy or safety of the person, hinder a criminal investigation, or for other equivalent reasons in accordance with the law, and in conformity with applicable international law and with the objectives of this Convention." In no case are restrictions admitted if they could constitute a secret detention.

- Several articles of ICMW invoke the obligation to provide information to migrants and their families about their rights in a language they understand. Article 13 affirms: "Migrant workers and members of their families shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds." Article 14 affirms: "No migrant worker or member of his family shall be subjected to arbitrary or unlawful interference with his or her privacy." Article 16 (5) affirms: "Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them." Article 18 (3) (a) affirms: "In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees: (a) to be informed promptly and in detail in a language they understand of the nature and cause of the charge against them." Article 22 (3) affirms that in cases of expulsion "The decision shall be communicated to them in a language they understand."
- Article 6 (2) (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affirms: "Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases: (a) information on relevant court and administrative proceedings." Article 6 (3) (b) affirms the right of trafficked persons to receive "counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand".

Regional norms

- Article 13 of the American Convention on Human Rights of the Organization of American States affirms that everyone shall have the right "to seek, receive, and impart information". Article 11 affirms the right to privacy.
- Article 9 (1) of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms the right of every individual "to receive information".
- Article 11 (1) of the Charter of Fundamental Rights of the European Union affirms: "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers."

Principle 17

Ensure that all responses to migration, including large or mixed movements, are monitored and accountable.

Normative framework

- Article 8 of UDHR affirms: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."
- Article 2 (3) (a) of ICCPR affirms that each State Party to the Convention shall "ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity". Article 2 (3) (c) affirms that States Parties will "ensure that the competent authorities shall enforce such remedies when granted". The Covenant also established a body of independent experts, the Human Rights Committee, to monitor implementation of the Covenant by States Parties, and required each State Party to submit reports on the measures it adopted "to give effect to the rights recognized herein and on the progress made in the enjoyment of those rights"(Article 40).
- Article 16 (1) of ICESCR requires States Parties to submit reports on the "measures which they have adopted and the progress made in achieving the observance of the rights recognized herein". Economic and Social Council resolution 1985/17 established the Committee on Economic, Social and Cultural Rights (CESCR), a body of independent experts appointed to monitor implementation of the Convention.
- Article 6 of ICERD affirms: "States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions…as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination." Article 8 establishes a body of independent experts, the Committee on the Elimination of Racial Discrimination (CERD), to monitor implementation of the Convention by States Parties. Article 9 requires each State Party to submit reports to the Committee, on legislative, judicial, administrative or other measures they have adopted that meet provisions of the Convention.
- Article 14 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment affirms: "Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation." Article 19 affirms: "The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention." Article 20 (1) establishes an inquiry procedure to examine "reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party". Article 17 establishes a body of independent experts, the Committee against Torture (CAT), to monitor implementation of the Convention. Article 19 requires each State Party to submit reports on measures it has adopted.
- Article 43 of the Convention on the Rights of the Child established a body of independent experts, the Committee on the Rights of the Child (CRC), to monitor implementation of the Convention. Article 44 requires each State Party to submit reports on measures it has adopted.
- Article 83 of ICMW affirms the right to remedy, "to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity". Article 72 established a body of independent experts, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), to monitor implementation of the Convention. Article 73 required each State Party to submit reports on measures it has adopted.
- Article 33 of the Convention on the Rights of Persons with Disabilities affirms:

Principle 17

Ensure that all responses to migration, including large or mixed movements, are monitored and accountable

"States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights." Article 34 established the Committee on the Rights of Persons with Disabilities (CRPD) to monitor implementation of the Convention. Article 35 requires each State Party to submit reports on the measures it has taken.

- Article 8 (2) of ICPPED affirms that "Each State Party shall guarantee the right of victims of enforced disappearance to an effective remedy during the term of limitation." Article 24 (4) affirms: "Each State Party shall ensure in its legal system that the victims of enforced disappearance have the right to obtain reparation and prompt, fair and adequate compensation." Article 26 established the Committee on Enforced Disappearances (CED) to monitor implementation of the Convention. Article 29 requires each State Party to submit reports on the measures it has adopted.
- Article 6 (6) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affirms: "Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered."
- Article 75 (1) of the Rome Statute of the International Criminal Court affirms: "The Court shall establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation."

Regional norms

- Article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe affirms: "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."
- Chapter VI of the American Convention on Human Rights of the Organization of American States creates and sets out the functions and mode of operation of two organs: the Commission of Human Rights, which shall "promote respect for and defense of human rights" (art. 41); and the Court, which has jurisdiction "on all matters relating to the interpretation or application of this Convention" (art. 62). Article 10 affirms: "Every person has the right to be compensated in accordance with the law in the event he has been sentenced by a final judgment through a miscarriage of justice."
- Article 26 (1) of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms: "States Parties to the … Charter shall have the duty to guarantee the independence of the Courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter." Article 45 created a Commission to promote and ensure protection of the human rights the Charter affirms.
- Article 45 of the Arab Charter on Human Rights of the League of Arab States establishes an "Arab Human Rights Committee". Article 48 (1) affirms: "The States parties undertake to submit reports to the Secretary-General of the League of Arab States … The Secretary General shall transmit these reports to the Committee for its consideration."
- Article 47 of the Charter of Fundamental Rights of the European Union affirms: "Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article."

Principle 18

Respect and support the activities of human rights defenders who promote and protect the human rights of migrants

Normative framework

- Article 19 of UDHR affirms: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." Article 20 (1) affirms: "Everyone has the right to freedom of peaceful assembly and association."
- Article 19 of ICCPR affirms "the right to hold opinions without interference" and "the right to freedom of expression". Article 21 affirms: "The right to peaceful assembly shall be recognized." Article 22 affirms the right to freedom of association and Article 25 the right to participation in public life.
- Article 3 of ICPPED affirms: "Each State Party shall take appropriate measures to investigate acts defined in article 2 committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice". Article 4 affirms: "Each State Party shall take the necessary measures to ensure that enforced disappearance constitutes an offence under its criminal law."

Regional norms

- Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe affirms the right to "freedom of peaceful assembly and to freedom of association with others".
- Articles 13, 15 and 16 of the American Convention on Human Rights of the Organization of American States affirms the rights of freedom of thought and expression, the right of assembly, and freedom of association.
- The African Charter on Human and Peoples' Rights of the Organization of African Unity affirms the right of freedom of association (art. 10) and the right to assemble freely with others (art. 11).
- Article 30 of the Arab Charter on Human Rights of the League of Arab States affirms: "Everyone has the right to freedom of thought." Article 32 affirms the right to "freedom of opinion and expression".
- Article 11 (1) of the Charter of Fundamental Rights of the European Union affirms: "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers." Article 12 of the Charter affirms: "Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests."

Principle 19

Improve the collection of disaggregated data on the human rights situation of migrants while protecting personal data and their right to privacy

Normative framework

- Article 17 (1) of ICCPR affirms: "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation."
- Article 16 (1) of the Convention on the Rights of the Child affirms: "No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation."
- Article 31 of the Convention on the Rights of Persons with Disabilities affirms: "States Parties undertake to collect appropriate information, including statistical and

Principle 19

Improve the collection of disaggregated data on the human rights situation of migrants while protecting personal data and their right to privacy

research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall: (a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities; (b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights."

- Article 9 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affirms: "States Parties shall endeavour to undertake measures such as research … to prevent and combat trafficking in persons."

Regional norms

- Article 8 of the European Convention on Human Rights affirms: "Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."
- Article 11 of the American Convention on Human Rights of the Organization of American States affirms: "Everyone has the right to have his honor respected and his dignity recognized. No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation. Everyone has the right to the protection of the law against such interference or attacks."
- Article 45(1) (a) of the African Charter on Human and Peoples' Rights of the Organization of African Unity affirms that the Commission shall "collect documents, undertake studies and researches on African problems".
- Article 21 of the Arab Charter on Human Rights of the League of Arab States affirms: "No one shall be subjected to arbitrary or unlawful interference with regard to his privacy, family, home or correspondence, nor to unlawful attacks on his honour or his reputation."
- Article 7 of the Charter of Fundamental Rights of the European Union affirms: "Everyone has the right to respect for his or her private and family life, home and communications." Article 8 affirms: "Everyone has the right to the protection of personal data concerning him or her. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified. Compliance with these rules shall be subject to control by an independent authority."

Principle 20

Ensure human rights-based and gender-responsive migration governance

Normative framework

- Article 22 (1) of UDHR affirms that everyone is entitled to realization of the economic, social and cultural rights indispensable for his dignity and the free development of his personality "through national effort and international co-operation and in accordance with the organization and resources of each State".
- Article 1 (3) of the Charter of the United Nations affirms that one of the purposes of

the United Nations is "to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". Article 56 affirms that all Members of the United Nations "pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55", which states that the United Nations will promote, inter alia, "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion".

- Article 2 (1) of ICESCR affirms: "Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures."
- Article 1 of the Convention against Transnational Organized Crime states that the purpose of the Convention is to promote cooperation to prevent and combat transnational organized crime more effectively.
- Article 2 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children affirms: "The purposes of this Protocol are: (a) To prevent and combat trafficking in persons, paying particular attention to women and children; (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and (c) To promote cooperation among States Parties in order to meet those objectives."
- Article 2 of the Protocol against the Smuggling of Migrants by Land, Sea and Air affirms: "The purpose of this Protocol is to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, while protecting the rights of smuggled migrants." Article 7 affirms: "States Parties shall cooperate to the fullest extent possible to prevent and suppress the smuggling of migrants by sea, in accordance with the international law of the sea." Article 14 (2) (e) affirms: "States Parties shall cooperate with each other and with competent international organizations, non-governmental organizations, other relevant organizations and other elements of civil society as appropriate to ensure that there is adequate personnel training in their territories to prevent, combat and eradicate the conduct set forth in article 6 of this Protocol and to protect the rights of migrants who have been the object of such conduct. Such training shall include: The humane treatment of migrants and the protection of their rights as set forth in this Protocol." Article 18 (6) affirms: "States Parties may cooperate with relevant international organizations in the implementation of this article."

Regional norms

- Article 12 of the Association of South East Asian Nations (ASEAN) Convention against Trafficking in Persons, Especially Women and Children states provides for a range of areas of cooperation between the respective parties to the Convention. Chapter VI also addresses international cooperation including mutual legal assistance (art. 18), extradition (art. 19), law enforcement cooperation (art. 20), international cooperation for purposes of confiscation (art. 21) and disposal of confiscated proceeds of crime or property (art. 22).

Notes

[1] The international bill of rights (UDHR, ICCPR and ICESCR) distinguishes between nationals and non-nationals with respect to only two rights, and only in limited circumstances. Article 25 of ICCPR reserves to citizens the right to vote and take part in public affairs, and article 12 reserves the right to

freedom of movement within a country to foreigners who are lawfully present within the country. However, in its general comment No. 15 (1986) on the position of aliens under the Covenant, the Human Rights Committee has stated that a foreigner may enjoy the protection of article 12 even in relation to entry or residence, for example, when considerations of non-discrimination, prohibition of inhuman treatment and respect for family life arise (para. 2). Article 2 (3) of ICESCR establishes one limited exception to the principle of non-discrimination on grounds of nationality in the enjoyment of the rights of the Covenant. This provision states: "Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals." However, article 2 (3) must be narrowly construed, and the exception applies only to developing countries and it only concerns economic rights. Under ICESCR, a State may not discriminate on grounds of nationality or legal status. Any distinction, exclusion, restriction or preference, or other differential treatment on grounds of nationality or legal status, should be in accordance with the law, pursue a legitimate aim and remain legitimate to the aim pursued. See the statement by CESCR, "Duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights" (E/C.12/2017/1), paras. 3, 5, 6 and 8; Human Rights Council resolution 32/14, "Protection of the human rights of migrants: strengthening the promotion and protection of the human rights of migrants, including in large movements"; and report of the Special Rapporteur on the human rights of migrants, "Regional study: management of the external borders of the European Union and its impact on the human rights of migrants" (A/HRC/23/46), paras. 36, 42 and 82. Similarly, it is accepted in international law that international treaties apply to all individuals in the territory of a State. See Declaration on the Human Rights of Individuals Who are not Nationals of the Countries in which they Live, General Assembly resolution 40/144, annex, art. 1. See also Beijing Platform for Action adopted at the Fourth World Conference on Women, paras. 58 (k) and 147 (h); Durban Programme of Action, para. 26; New York Declaration for Refugees and Migrants, General Assembly resolution 71/1, para. 41.

[2] See Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, art. 14; Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime, art. 19 (1); General Assembly resolution 70/147, "Protection of migrants", para. 3 (c) and (d); New York Declaration for Refugees and Migrants, para. 5; Human Rights Council, resolution 20/3, "Human rights of migrants", fourth preambular paragraph and para. 1; resolution 23/20, Human rights of migrants", para. 3; and resolution 32/14, paras. 7 and 9; report of the Special Rapporteur on the human rights of migrants, (A/71/285), throughout but particularly paras. 29, 30 and 73; New Urban Agenda, outcome document of the United Nations Conference on Housing and Sustainable Urban Development (Habitat III) (Quito, 17-20 October 2016), General Assembly resolution 71/256, annex, para. 28.

[3] CMW, general comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families, para. 20; CMW, concluding observations on the initial report of Turkey (CMW/C/TUR/CO/1), para. 42 (h); General Assembly resolution 70/130, "Violence against women migrant workers", para. 6.

[4] OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 10 (5); A/HRC/23/46, para. 88.

[5] ICCPR, art. 12 (2); CMW, general comment No. 2, para. 24; joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, para. 7; CMW, concluding observations on the combined second and third periodic reports of Senegal (CMW/C/SEN/CO/2-3), para. 27 (a); CAT, concluding observations on the fourth periodic report of Cyprus (CAT/C/CYP/CO/4), para. 17 (a); report of the Working Group on Arbitrary Detention (A/HRC/7/4), para. 53; report of the Working Group on Arbitrary Detention (A/HRC/13/30), para. 58; report of the Special Rapporteur on the human rights of migrants (A/HRC/20/24), para. 13.

[6] Protocol against the Smuggling of Migrants by Land, Sea and Air, art. 5.

[7] Durban Declaration, paras. 2, 12, 16, 38, 47, 48, 49 and 51, and Programme of Action, paras. 6, 27, 29 and 30; CESCR, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, paras. 38–39; CMW, general comment No. 2, paras. 20, 21 (f) and 39; CEDAW, general recommendation No. 26 (2008) on women migrant workers, paras. 23 (a) and 25 (b); CEDAW, general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, paras. 24–26.

[8] 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness, Guidance Note of the Secretary-General: The United Nations and Statelessness, Office

of the United Nations High Commissioner for Refugees (UNHCR), *Handbook on Protection of Stateless Persons Under the 1954 Convention relating to the Status of Refugees* (2014); CERD, general recommendation No. 30 (2004) on discrimination against non-citizens, para. 16; CEDAW, general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations, paras. 58–61; CEDAW, general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, paras. 9–11, 51–8, 60 and 63 (e), (h), (i) and (j). See also the "#I Belong" campaign to end statelessness by 2024 by resolving existing major situations of statelessness and preventing new cases from emerging, at www.unhcr.org/ibelong/; Agenda For Humanity, report of the Secretary-General for the World Humanitarian Summit (A/70/709, annex), core responsibility three: leave no one behind: end statelessness in the next decade; report of the Secretary-General on the status of the Convention on the Rights of the Child (A/71/413), paras. 28 and 29; European Convention on Nationality; Council of Europe, Committee of Ministers, recommendation CM/Rec (2009)13 and explanatory memorandum of the Committee of Ministers to member States on the nationality of children.

9 The principle of non-discrimination is central to all international human rights instruments (see in this document "How international law informs the principles"). The rights guaranteed in international human rights treaties apply to everyone, including migrants and other non-nationals, without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, including immigration status. The prohibition of discrimination in the workplace is also affirmed in two fundamental conventions of the International Labour Organization (ILO): the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Paragraph 28 of the resolution concerning a fair deal for migrant workers in a global economy, adopted by the International Labour Conference at its 92nd session in 2004, affirms: "It is important to ensure that the human rights of irregular migrant workers are protected. It should be recalled that ILO instruments apply to all workers, including irregular migrant workers, unless otherwise stated." See also Human Rights Committee, general comment No. 15, paras. 1–2; Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, paras. 3 and 10; E/C.12/2017/1, paras. 3, 5, 6 and 8; CESCR, general comment No. 20, throughout but particularly paras. 11, 12, 24, 30 and 39; CERD, general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination; CERD, general recommendation No. 30, paras. 7–9 and, generally, CEDAW, general recommendation No. 26, paras. 1 and 5; CEDAW, general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, paras. 12 and 18; CEDAW, general recommendation No. 32, para. 6; CWM, general comment No. 2, paras. 2, 8, 12, 18–20 and 76; CRPD, general comment No. 1 (2014) on equal recognition before the law, paras. 4–7, 25 and 32–35; CRPD, general comment No. 2 (2014) on accessibility, para. 13; CRPD, general comment No. 3 (2016) on women and girls with disabilities; United Nations Principles for Older Persons, General Assembly resolution 46/91, annex, principle 18; Beijing Declaration, para. 32, and Platform for Action, para. 225; Durban Declaration, paras. 2, 12, 48, 49 and 51, and Programme of Action, paras. 24, 26–27 and 30–31; Commission on the Status of Women, agreed conclusions of the sixtieth session, "Women's empowerment and the link to sustainable development", paras. 16 and 23 (w); General Assembly resolution 3449 (XXX), "Measures to ensure the human rights and dignity of all migrant workers"; General Assembly resolution 70/1, "Transforming our world: the 2030 Agenda for Sustainable Development", para. 23 and Sustainable Development Goals targets 5.1, 10.2, 10.3 and 16 (b); New York Declaration for Refugees and Migrants, paras. 13 and 31; Human Rights Council resolution 29/2, "Protection of the human rights of migrants: migrants in transit", para. 7 (a); Human Rights Council resolution 32/14, paras. 9 and 10; report of the Special Rapporteur on violence against women, on the subject of race, gender and violence against women, contribution to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/PC.3/5), in particular paras. 76–116; report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/26/29), paras. 25, 37 and 30; report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/32/50).

10 Durban Declaration, paras. 12, 38 and 47, and Programme of Action, para. 30, especially 30 (b); CERD, general recommendation No. 30, para. 9; CMW, concluding observations on the initial report of Peru (CMW/C/PER/CO/1), para. 27.

11 CERD, general recommendation No. 35 (2013) on combating racist hate speech; CMW, general Comment No. 2 (2013) para. 22; CMW/C/PER/CO/1, para. 27; Programme of Action of the International Conference on Population and Development (Cairo, 5–13 September 1994), para. 10.16 (d); Durban Declaration, paras. 48–50, and Programme of Action, paras. 24, 29 and 30 (a) and (b); General Assembly resolution 55/2, "United Nations Millennium Declaration", para. 25; Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal

Justice Systems and Their Development in a Changing World, General Assembly resolution 65/230, annex, para. 38; General Assembly resolution 67/185, "Promoting efforts to eliminate violence against migrants, migrant workers and their families", para. 5; General Assembly resolution 70/147, para. 3 (a); report of the Secretary-General, "In safety and dignity: addressing large movements of refugees and migrants" (A/70/59), paras. 37–40 and 101 (c) (ii); report of the Special Rapporteur on the human rights of migrants (A/65/222), paras. 82–84; New York Declaration for Refugees and Migrants, para. 14; report of the Special Rapporteur on the human rights of migrants (A/HRC/17/33), paras. 25 and 75; A/HRC/32/50, throughout and especially para. 34; report of the Special Rapporteur on the human rights of migrants, "Banking on mobility over a generation: follow-up to the regional study on the management of the external borders of the European Union and its impact on the human rights of migrants" (A/HRC/29/36), paras. 21–37 and 89; Inter-Parliamentary Union, ILO and OHCHR, *Migration, Human Rights and Governance: Handbook for Parliamentarians* No. 24 (2015), p. 84; OHCHR, "The spectre of nationalistic and xenophobic politics looms over migrants and refugees"; OHCHR, "Human rights are for all, even for migrants: Rights experts remind participants to upcoming UN Summit", 16 September 2016.

[10] ICCPR, art. 20 (2). Article 19 (3) of the same Covenant states that restrictions to the right of freedom of expression must be set out in law and made clear and accessible to everyone, must be necessary and legitimate to protect the rights or reputation of others and to protect national security, public order, public health or morals, and must be proportionate in relation to the purported aim. See report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/67/357). See also the six-part threshold test of the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, in report of the United Nations High Commissioner for Human Rights (A/HRC/22/17/Add.4), appendix, para. 29.

[11] ICCPR, art. 22; ICMW, arts. 26 and 40.

[12] ICCPR, art. 18; ICMW, art. 12; report of the Secretary-General, "Promotion and protection of human rights, including ways and means to promote the human rights of migrants" (A/70/296), para. 79 (f); CMW, general comment No. 2, para. 4; General Assembly resolution 3449 (XXX); General Assembly resolution 59/194, "Protection of migrants", preamble and para. 2; General Assembly resolution 70/1, paras. 29 and 36; Commission on the Status of Women, agreed conclusions of the sixtieth session, paras. 10 and 23 (i); A/70/59, par. s. 40 and 63; A/65/222, paras. 28–30; A/71/285, paras. 19–20, 31–34, 59 and 60; A/HRC/23/46, paras. 34, 35 and 89; A/HRC/29/36, paras. 72–74 and 90; OHCHR, *The Economic, Social and Cultural Rights of Migrants in an Irregular Situation* (2014), p. 99; Migrants in Countries in Crisis Initiative, *Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster* (2016), principle 7; OECD, ILO and World Bank, *The Contribution of Labour Mobility to Economic Growth*, joint paper for the meeting of labour and employment ministers of the Group of 20 (G-20) meeting in October 2015.

[13] CMW/C/PER/CO/1, para. 27.

[14] Programme of Action of the International Conference on Population and Development, para. 11.11; Durban Programme of Action, para. 27; A/70/59, paras. 63 and 101 (c) (ii); General Assembly, Sustainable Development Goal 10, target 10.(b); New York Declaration for Refugees and Migrants, para. 14.

[15] OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 2 (2); outcomes and recommendations of a seminar entitled "Creating migration challenges met and unmet", convened by the United Nations Alliance of Civilizations (Paris, 25–26 January 2013).

[16] Principles relating to the status of national institutions, for the promotion and protection of human rights (the Paris Principles), para. 3 (g); General Assembly, Sustainable Development Goal 10, target 10.6.

[17] CERD, general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system; CRC, general comment No. 10 (2007) on children's rights in juvenile justice; CEDAW, general recommendation No. 26, para. 26 (i); CRPD, general comment No. 1, Human Rights Committee, general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 8.

[18] CEDAW, general recommendation No. 26, para. 26 (i); Council of Europe, Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), art. 59.

[19] International human rights and labour treaties affirm the right to have access to courts and tribunals and enjoy equality before them. See, for example, CERD, arts. 5 and 6; ICPR, arts. 2 (1), 3, 14 and 26; ICESC, arts. 2 (2) and 3; Convention on the Elimination of All Forms of Discrimination against Women, in particular arts. 1, 3 and 15; ICMW, art. 18; Convention on the Rights of Persons with Disabilities, art. 5 and also art. 13 on access to justice; ILO Migration for Employment Convention (Revised), 1949 (No. 97); Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143);

and Protocol of 2014 to the Forced Labour Convention, 1930; CERD, general recommendation No. 31, throughout and especially paras. 6–8; CEDAW, general recommendation No. 26, paras. 23 and 26 (b); CEDAW, general recommendation No. 32, para. 39 (b); CEDAW, general recommendation No. 33 (2015) on women's access to justice, throughout and especially para. 51; CMW, general comment No. 2, paras. 2, 28–30 and 31; CRPD, general comment No. 1, report of the Working Group on Arbitrary Detention, "United Nations Principles and Guidelines on remedies and procedures on the right of anyone deprived of their liberty to bring proceedings before a court" (A/HRC/30/37, annex), para. 42; United Nations Principles for Older Persons, principle 17. See also 2030 Agenda for Sustainable Development, including the Sustainable Development Goals, targets 16.3 and 16.10; New York Declaration for Refugees and Migrants, para. 16; A/HRC/29/36, paras. 46–48; Council of Europe, recommendation CM/Rec(2012)2 of the Committee of Ministers to member States on the participation of children and young people under the age of 18; Council of Europe, Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, adopted by the Committee of Ministers of the Council of Europe on 17 November 2010.

[7] On the right of all persons, regardless of status, to have access to a lawyer and in certain circumstances to legal aid without cost, see ICCPR, art. 14 (3) (d); ICMW, art. 18 (3) (b) and (d); Convention on the Rights of the Child, art. 40 (2) (b) (ii); CRC, general comment No. 10, para. 49; CEDAW, general recommendation No. 26, para. 26 (c) (iii); CEDAW, general recommendation No. 33, paras. 15, 26–28, 36 and 37 (a); Basic Principles on the Role of Lawyers, especially principles 1–4 and 6; United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, particularly principles 3–7 and 10; report of the Special Rapporteur on the independence of judges and lawyers (A/HRC/23/43), para. 42; citing the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, principle 11 on equity in access to legal aid; para. 32; Council of Europe, Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.

[8] Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 60/147, para. 15.

[9] Report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/19/58), paras. 69, 78, 79 and 80.

[10] A/69/448, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 2 (11).

[11] CMW, general comment No. 2, para. 64; A/HRC/29/36, paras. 47 and 114. See also the glossary of key terms in the present document; European Union Agency for Fundamental Rights, Apprehension of Migrants in an Irregular Situation (2013), and Criminalisation of Migrants in an Irregular Situation and of Persons Engaging with Them (2014), p. 1; Majcher and B. Hanley, "The case for firewall' protections for irregular migrants: safeguarding fundamental rights", European Journal of Migration and Law, vol. 17 (2015), pp. 157–183; Council of Europe, European Commission against Racism and Intolerance, general policy recommendation No. 16 on safeguarding irregularly present migrants from discrimination, CRI(2016)16, para. 31 (1); Committee of Experts, "Protecting the migrant worker from exploitation: a survey of the application of international labour standards", General Survey concerning the migrant workers instruments, ILC.105/III/1B (2011), paras. 496–502.

[12] CESCR, general comment No. 20, para. 38; Human Rights Council resolution 29/6, "Independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers", paras. 6 and 9; Basic Principles on the Role of Lawyers, principles 9 and 16; Guidelines on the Role of Prosecutors, guidelines 20(c), 12–15 (a), 19 and 16.

[13] United Nations Convention on the Law of the Sea, art. 98; International Convention for the Safety of Life at Sea, chap. V, regulation 7; International Convention on Maritime Search and Rescue, 1985; Principles relating to administrative procedures for disembarking persons rescued at sea. See also IMO Guidelines on the Treatment of Persons Rescued at Sea, resolution MSC.167(78) of the Maritime Safety Committee; Parliamentary Assembly of the Council of Europe, "Interception and rescue at sea of asylum seekers, refugees and irregular migrants", resolution No. 1821 (2011); New York Declaration for Refugees and Migrants, paras. 33 and 28; A/HRC/23/46, para. 90; A/HRC/29/36, paras. 101–106.

[14] ICCPR, art. 6 (1); Protocol against the Smuggling of Migrants by Land, Sea and Air, art. 16 (1) and (3). See also New York Declaration for Refugees and Migrants, paras. 33, 27 and 28; A/69/448, Recommended Principles and Guidelines on Human Rights at International Borders, guidelines 4 and 9. On rescue missions specifically, see guideline 4.2; and European Court of Human Rights, Xhavara and Others v. Turkey (application No. 39473/98), judgment of 24 June 2004.

[15] IMO, Principles Relating to Administrative Procedures for Disembarking Persons Rescued at Sea; CMW, art. 28; Protocol against the Smuggling of Migrants by Land, Sea and Air, art. 16 (1) (4); The Sphere Project, Humanitarian Charter and Minimum Standards in Humanitarian Response.

[1] In accordance with the principle of non-discrimination, central to all international human rights instruments; see principle 2 of the present Principles and Guidelines.

[2] CMW, general comment No. 2, para. 50; CEDAW, general recommendation No. 30, para. 41 (b); CEDAW, general recommendation No. 32, paras. 44 and 63 (j); CRC, general comment No. 6 (2005) on treatment of unaccompanied or separated children outside their country of origin, paras. 13, 31 and 32; joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, paras. 18–29, 33, 48, 53, 54 (m), 67, 69, 71 and 72 (a); New York Declaration for Refugees and Migrants, para. 35, also annex I, para. 5 (a) and (c), and annex II, para. 8 (l); General Assembly resolution 70/147, para. 5 (k); Human Rights Council resolution 29/2, para. 7 (f); Human Rights Council resolution 32/2, "Trafficking in persons, especially women and children: protecting victims of trafficking and people at risk of trafficking, especially women and children in conflict and post-conflict situations", paras. 2 (f) and 3; A/69/222, paras. 42, 46 and 79; A/71/285, para. 101; report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/31/57), para. 70 (q); OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1), principle 10 and guidelines 2, 5 (7), 8 (2) and 11 (5); OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guidelines 3 (1), 12, 5 (4), 6 (1), 6 (14), 6 (17) and 7.

[3] OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 4 (3) and (7). See also Protocol against Smuggling of Migrants, arts. 8 (5), 19 (1) (a) and 16 (3).

[4] A/HRC/23/46, para. 46; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 2 (6); European Union Agency for Fundamental Rights, *Criminalisation of Migrants in an Irregular Situation and of Persons Engaging With Them*.

[5] CMW, concluding observations on the combined second and third periodic reports of Senegal, CMW/C/SEN/CO/2-3, para. 59; CMW, concluding observations on the initial report of Honduras, CMW/C/HND/CO/1, para. 33 (d); A/HRC/33/51, paras. 68, 78, 79 and 80.

[6] ICCPR, art. 12 (2); Human Rights Committee, general comment No. 15 and general comment No. 27 (1999) on freedom of movement; 2030 Agenda for Sustainable Development, para. 29 and Sustainable Development Goals target 10.7; CEDAW, general recommendation No. 26, para. 3; General Assembly resolution 70/147, para. 5 (c); New York Declaration for Refugees and Migrants, para. 24; Human Rights Council resolution 20/3, "Human rights of migrants", para. 5; Human Rights Council resolution 32/14, para. 8; A/HRC/29/36, para. 92.

[7] Protocol against the Smuggling of Migrants by Land, Sea and Air, art. 5; A/HRC/7/4, para. 53; CMW, general comment No. 2, paras. 2 and 24; CMW/C/SEN/CO/2-3, para. 27 (a); CMW/C/TUR/CO/1, para. 42 (b); CAT/C/CYP/CO/4, paras. 16 and 17 (a); A/HRC/29/24, paras. 13–14; New York Declaration for Refugees and Migrants, para. 56; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 2, paras. 4–5.

[8] International Convention on Maritime Search and Rescue, Principles relating to administrative procedures for disembarking persons rescued at sea, Doc. No. LAL.3/Circ.194 (Disembarking Principles); General Assembly resolution 66/172, "Protection of migrants", para. 4 (c); A/HRC/23/46, paras. 59–68 on concerns about the human rights impacts of the externalization of borders; A/HRC/29/36, paras. 22 (a) and 35–40.

[9] CMW, general comment No. 2, para. 50; CEDAW, general recommendation No. 30, para. 41 (b); CEDAW, general recommendation No. 32, paras. 44 and 63 (j); CRC, general comment No. 6, paras. 13, 31 and 92; CEDAW and CRC, joint general recommendation No. 31 and general comment No. 18, paras. 18, 29, 33, 48, 53, 54 (m), 67, 69, 71 and 72 (a); New York Declaration for Refugees and Migrants, para. 35, also annex I, para. 5 (a) and (c), and annex II, para. 8 (l); General Assembly resolution 70/147, para. 5 (k); Human Rights Council resolution 29/2, para. 7 (f); Human Rights Council resolution 32/3, paras. 2 (f) and 3; A/69/222, paras. 42, 46 and 79; A/71/285, para. 101; A/HRC/31/57, para. 70 (q); OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, principle 10 and guidelines 2, 5 (7), 8 (2) and 11 (5); OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guidelines 3 (1), (3) and (12), 5 (4), 6 (1), (14) and (17) and 7.

[10] ICCPR, art. 13; ICMW, art. 22; CMW, general comment No. 2, paras. 49–59. See also Human Rights Committee, general comment No. 15, para. 10; CERD, general recommendation No. 30, paras. 25–28; CEDAW, general recommendation No. 32, paras. 45–46; General Assembly resolution 66/172, para. 5 (h); New York Declaration for Refugees and Migrants, paras. 24 and 58; Human Rights Council resolution 32/3, para. 2 (f); A/71/285, paras. 88 and 101; UNHCR, *Refugee Protection and Mixed Migration: The 10-Point Plan of Action* (2007), point 3; OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, guideline 2; OHCHR,

Recommended Principles and Guidelines on Human Rights at International Borders, guidelines 7 and 9; OHCHR, "Human rights are for all, even for migrants".

[42] ICCPR, art. 13; ICMW, art. 22; Migrant Workers (Supplementary Provisions) Convention, No. 143, para. 9 (3); CMW, general comment No. 2, paras. 52–59; Human Rights Committee, concluding observations on the third periodic report of Latvia (CCPR/C/LVA/CO/3), para. 14 (c); CERD, concluding observations on the eighteenth to twentieth periodic reports of Spain (CERD/C/ESP/CO/18-20), para. 13 (a); CEDAW, general recommendation No. 32, para. 46; General Assembly resolution 70/147, para. 5 (k); New York Declaration for Refugees and Migrants, paras. 25, 30, 35 and 58; also annex I, para. 5 (a)(viii) and annex II, para. 8 (l); OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, para. 10 and guidelines 2 (1)–(3), 5 (7), 8 (2) and 11 (5); OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, principle A (5) and guidelines 3 (12), 5 (4), 6 (1) and 7 (2) and (4).

[43] ICMW, art. 21; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 6 (2).

[44] CMW, general comment No. 2, para. 21 (a); CRC, general comment No. 6, paras. 13–95 and 96; Beijing Platform for Action, para. 232 (i); General Assembly resolution 66/172, para. 4 (e); General Assembly resolution 67/185, para. 10; General Assembly resolution 69/149, "Trafficking in women and girls", paras. 34 and 35; Human Rights Council resolution 29/2, para. 7 (d); OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders; A/HRC/31/57, para. 69; UNHCR, *Working with Persons with Disabilities in Forced Displacement* (2011).

[45] General Assembly resolution 66/172, para. 4 (e); OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders.

[46] See the glossary of key terms in the present document. See also Convention Relating to the Status of Refugees, art. 33; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 3; ICCPR, art. 7; International Convention for the Protection of All Persons from Enforced Disappearance, art. 16 (1); Human Rights Committee, general comment No. 20 (1992) on the prohibition of torture or other cruel, inhuman or degrading treatment or punishment), para. 9; Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 12; CRC, general comment No. 6, paras. 27, 28, 58 and 84; CMW, general comment No. 2, para. 60; CEDAW, general recommendation No. 32, paras. 17, 23; joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, para. 46; A/HRC/31/57, paras. 33 and 70 (e); European Convention for the Protection of Human Rights and Fundamental Freedoms, art. 3; European Convention on Extradition, art. 3 (2); Inter-American Convention on Extradition, art. 4 (5). See also: Sir Elihu Lauterpacht and Daniel Bethlehem, "The scope and content of the principle of non-refoulement: opinion", IOM, International Migration Law Information Note on the Principle of Non-Refoulement (April 2014); Working Group on Smuggling of Migrants of the Conference of the Parties to the United Nations Convention on Transnational Organized Crime, third session, recommendation 18. See also international and regional case law, including European Court of Human Rights, *Hirsi Jamaa and Others v. Italy* (application No. 27765/09), judgment of 16 November 2016, particularly paras. 146–147 on "chain refoulement", and *M.S.S. v. Belgium and Greece* (application No. 30696/09), judgment of 21 January 2011, in particular paras. 252, 254 and 366–368 on degrading living conditions.

[47] Anne T. Gallagher, "Migrant smuggling", in N. Boister and R. J. Currie (eds.), *Routledge Handbook of Transnational Criminal Law* (2015).

[48] Note that pushbacks generally constitute collective expulsion. See European Court on Human Rights, *Hirsi Jamaa and Others v. Italy*. See also ICCPR, art. 13; Convention against Torture, art. 3; ICMW, art. 22; CMW and CRC, joint general comment No. 3 and No. 22, para. 47; Human Rights Council resolution 17/22; "Migrants and asylum-seekers fleeing from events in North Africa", paras. 2 and 5; A/HRC/23/46, para. 56; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, principle C (11) and guidelines 4 (5) and 9 (13, 14) and (14); OHCHR, "Sealing international borders is impossible, it only empowers smugglers – New expert report warns"; "Using force will not stop the global migration crisis — UN experts call for 'smart mobility solutions'".

[49] OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 9 (3). See also UNHCR, *Handbook on Voluntary Repatriation* (1996), where elements may apply by analogy.

[50] ICCPR, art. 12 (4); Convention on the Rights of the Child, art. 10 (2); Convention on the Rights of Persons with Disabilities, art. 18 (1) (c); Human Rights Committee, general comment No. 27, paras. 19–21; CMW, general comment No. 2, para. 56; Programme of Action of the International Conference on Population and Development, para. 10.20; Declaration of the High-level Dialogue on

International Migration and Development, General Assembly resolution 68/4, para. 24; New York Declaration for Refugees and Migrants, para. 42; 2030 Agenda for Sustainable Development, para. 29; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 9 (9).

[51] CMW and CRC, joint general comment No. 3 and No. 22, para. 33; CRC, general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, paras. 36–40; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 9 (7) and (13).

[52] CMW and CRC, joint general comment No. 3 and No. 22, paras. 30, 32 (e) (g) and (j) and 33.

[53] CMW and CRC, joint general comment No. 3 and No. 22, paras. 27–33, and joint general comment No. 4 and No. 23, para. 17; CRC, general comment No. 6, paras. 27, 28, 53, 58, 82–89, 92 and 93; Inter-American Court of Human Rights, *Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection*, Advisory Opinion OC-21/14, paras. 222 and 231–233; UNHCR, *Protection Training Manual for European Border and Entry Officials* (2011), module 7; Declaration of the High-level Dialogue on International Migration and Development, para. 13; OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, guideline 8 (5); CMW, concluding observations on the second periodic report of Mexico (CMW/C/MEX/CO/2), para. 56 (c); CMW, concluding observations on the second periodic report of El Salvador (CMW/C/SLV/CO/2), para. 49 (d).

[54] CMW, general comment No. 2, para. 50; Council of Europe, recommendation CM/Rec(2007)9 of the Committee of Ministers to member States on life projects for unaccompanied migrant minors.

[55] CMW/C/TUR/CO/1, para. 82 (a); CMW/C/HND/CO/1, para. 51; CEDAW, general recommendation No. 32, para. 50 (l); CRC, general comment No. 6, paras. 84 and 86; Programme of Action of the International Conference on Population and Development, para. 10.2 (c); report of the Office of the United Nations High Commissioner for Human Rights on the situation of migrants in transit (A/HRC/31/35), para. 27; OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, guideline 6 (8); A/HRC/23/46, annex, para. 103.

[56] CMW/C/HND/CO/1, para. 51; A/HRC/23/46, annex, para. 103.

[57] Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (E/CN.4/2005/48), paras. 13 and 50–56; report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (A/HRC/31/54), paras. 2, 16, 17, 34–43 and 46; UNHCR, *Field Handbook for the Implementation of UNHCR BID Guidelines*, section 3.11.5 on residential care.

[58] For definitions of "extreme weather", see the glossary of terms in Intergovernmental Panel on Climate Change, *Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation*, annex II, C.B. Field and others (eds.), (Cambridge University Press, 2012), pp. 555-564. See also section 3.1.2, pp.115–118 of the same report. For a definition of "slow onset events", see "Slow onset events: technical paper" (FCCC/TP/2012/7).

[59] OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, guideline 11 (11); OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 9 (23) and (22).

[60] ICCPR, art. 2 (3); ICERD, art. 6; Convention against Torture, art. 14; Convention on the Rights of the Child, art. 19 (2); CAT, general comment No. 3 (2012) on implementation of article 14; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law; A/HRC/23/46, annex, para. 103.

[61] CMW, general comment No. 2, para. 27; CEDAW, general recommendation No. 33, para. 51 (p); A/HRC/13/30, para. 61; Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, para. 18; CAT, concluding observations on the combined fifth and sixth periodic reports of the Netherlands (CAT/C/NLD/CO/5-6), para. 15 (a); CAT/C/CYP/CO/4, para. 17 (c); Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, art. 7 (1) and (2); OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 8 (5); OSCE, Self-Assessment Tool for Nations to Increase Preparedness for Cross-Border Implications Of Crises (2013); UNHCR, Guidelines on Temporary Protection or Stay Arrangements (2014); Regional Conference for Migration, *Protection for Persons Moving Across Borders in the Context of Disasters: A Guide to Effective Practices For RCM Member Countries* (2016); The Nansen Initiative, *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change*, Volume I (2015).

[62] OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 9.

[63] ICCPR, arts. 7 and 8; ICESCR, arts. 6 (1), 7 and 10 (3); Convention against Torture, arts. 1 and 2 (1); Convention on the Rights of the Child, arts. 19 (1), 32 (1), 34, 35 and 36; Optional Protocol to the

Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; Convention on the Rights of Persons with Disabilities, art. 16; Convention on the Elimination of All Forms of Discrimination against Women, art. 6; Declaration on the Elimination of Violence against Women; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; Protocol against the Smuggling of Migrants by Land, Sea and Air, art. 6 (3); ILO Worst Forms of Child Labour Convention, 1999 (No. 182); Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29), art. 2; Council of Europe Convention for the Protection of Children from Sexual Exploitation and Sexual Abuse (CETS No. 201); CEDAW, general recommendation No. 19 (1992) on violence against women; CEDAW, general recommendation No. 26, paras. 11, 12, 19, 20, 21 and 26 (j) and (l); CEDAW, general recommendation No. 27 (2010) on older women and protection of their human rights, paras. 16, 18, 37 and 38; CEDAW, general recommendation No. 32, paras. 15, 22, 23, 27, 28, 31 and 46; CEDAW, general recommendation No. 33, paras. 8, 10, 16 (b), 17 (f), 19 (f), 24 and 26; CRC, general comment No. 3 (2003) on HIV/AIDS and the rights of the child, paras. 37–38; CRC, general comment No. 6, paras. 3, 23, 31, 40, 47 and 50–54; CEDAW and CRC, joint general recommendation No. 31 and general comment No. 18, paras. 18–29, 72 (d), 85 and 86 (e); CRC, general comment No. 20 (2016) on the implementation of the rights of the child during adolescence, paras. 82 and 83; CESCR, general comment No. 14 (2000) on the right to the highest attainable standard of health, para. 51; CESCR, general comment No. 22 (2016) on the right to sexual and reproductive health, paras. 29, 32, 49 (d) and 59; CMW, general comment No. 2, paras. 21–22; Human Rights Committee, concluding observations on the fourth periodic report of the United States of America (CCPR/C/USA/CO/4), para. 14; Beijing Platform for Action, paras. 58 (k), 116, 126 (d) and 148 (b); Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, para. 38; General Assembly resolution 67/185, paras. 3, 11 and 16; General Assembly resolution 66/172, para. 8; General Assembly resolution 70/130, paras. 6, 9, 10, 11 and 24; General Assembly resolution 70/164, "Measures to enhance the promotion and protection of the human rights and dignity of older persons", para. 3; United Nations Principles for Older Persons, principle 17; 2030 Agenda for Sustainable Development, paras. 8, 20, 27, and Sustainable Development Goals targets 5.2, 5.3, 8.7, 16.1 and 16.2; New York Declaration for Refugees and Migrants, paras. 10 and 29-31; A/HRC/31/57, para. 31; Global Migration Group, *Exploitation and Abuse of International Migrants: Particularly Those in an Irregular Situation: A Human Rights Approach* (2013). In the context of trafficking in persons. See also UNODC, *The Concept of "Exploitation" in the Trafficking in Persons Protocol* (2015); UN-Women, *Gender Assessment of the Refugee and Migration Crisis in Serbia and FYR Macedonia* (Istanbul, UN-Women Europe and Central Asia Regional Office, 2016).

[93] Convention on the Rights of the Child and the Optional Protocols thereto; ILO, Worst Forms of Child Labour Convention, 1999 (No. 182); and Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29); Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; CRC, general comment No. 6, paras. 50–51; Beijing Platform for Action, para. 125 (c); General Assembly resolution 70/130, para. 10; 2030 Agenda for Sustainable Development, paras. 8 and 27 and Sustainable Development Goals targets 5.2, 5.3, 8.7, 8.8 and 16.2; Human Rights Council resolution 32/3, para. 2 (b); report of the Special Rapporteur on the human rights of migrants on labour exploitation of migrants (A/HRC/26/35).

[94] UN-Women, *Gender Assessment of the Refugee and Migration Crisis in Serbia and FYR Macedonia*.

[95] CESCR, general comment No. 14, paras. 35–36; CESCR, general comment No. 22, paras. 29, 32, 45 and 59; CEDAW, general recommendation No. 19; CEDAW, general recommendation No. 24 (1999) on women and health, paras. 5, 12 (d), 16, 25 and 29; CEDAW, general recommendation No. 26, paras. 11, 18, 20, 26 (i) and 26 (j); CEDAW, general recommendation No. 32, para. 50 (i); CMW, general comment No. 2, paras. 21 and 36; CRC, general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, paras. 10, 60 and 88; CRPD, general comment No. 3, paras. 10, 26, 41, 43, 45, 49, 50 and 53; Beijing Platform for Action, para. 125 (f); Declaration of the High-level Dialogue on International Migration and Development, para. 11; General Assembly resolution 69/229, "International migration and development", para. 16; General Assembly resolution 69/149, "Trafficking in women and girls", paras. 15 and 29; General Assembly resolution 70/130, paras. 4, 15 and 19; New York Declaration for Refugees and Migrants, paras. 26, 31 and 59, and annex II, para. 8 (o); Human Rights Council resolution 29/2, preamble and para. 7 (a); Human Rights Council resolution 32/14, 15 July 2016, preamble and para. 10; Interagency Working Group (IAWG) on Reproductive Health in Crises, Minimum Initial Service Package for Reproductive Health in Crisis Situations; Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, paras. 14-17 (General Assembly resolution 40/34).

[96] General Assembly, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, para. 16; Implementation of the UN Declaration of Basic Principles of Justice for Victims of

Crime and Abuse of Power, Economic and Social Council resolution 1989/57, para. 3(b); UNHCR, Age, Gender and Diversity Policy: Working with people and communities for equality and protection (2011).

[48] CMW, general comment No. 2, paras. 21 (b) and (c) and 36 (d) and (e); CEDAW, general recommendation No. 26, paras. 21 and 25 (b); CEDAW, general recommendation No. 32, para. 8; CAT, general comment No. 2 (2008) on the implementation of article 2, paras. 18 and 22; General Assembly resolution 66/172, para. 4 (e); United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, General Assembly resolution 69/194, annex, para. 47; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, principle 13 and guidelines 1 (10), 2 (10) and (11), 3 (17), 5 (9) and 8 (20).

[49] CERD, general recommendation No. 31, paras. 2 and 10; CMW, general comment No. 2, para. 2; CEDAW, general recommendation No. 26, paras. 21–22; CEDAW, general recommendation No. 33, paras. 10, 25 (b) and 51 (d); General Assembly resolution 70/147, para. 3 (b); A/71/285, paras. 80–82; OSCE, Recommendations on Policing in Multi-Ethnic Societies, recommendation 20; Council of Europe, European Commission against Racism and Intolerance, general policy recommendation 11 on combating racism and racial discrimination in policing, para. 72. See also "Firewall" in the glossary of key terms in the present document.

[50] Protocol against the Smuggling of Migrants by Land, Sea and Air, art. 6 (3); CEDAW, general recommendation No. 26, paras. 25 (b) and 27 (b) (ii); CEDAW, general recommendation No. 32, para. 8; General Assembly resolution 70/130, paras. 18, 21 and 22; General Assembly resolution 70/147, para. 4 (d).

[51] ICCPR, art. 9 (1); ICMW, art. 16 (1); Convention Relating to the Status of Refugees, art. 31 (1); Human Rights Committee, general comment No. 35, especially paras. 3 and 18. The Human Rights Committee has set out the minimum legal obligations under ICCPR, other instruments and experts have said more clearly that immigration detention should cease. See CMW, general comment No. 2, para. 24; CAT/C/CYP/CO/4, para. 17 (a); CAT, concluding observations on the combined fourth and fifth periodic reports of Australia (CAT/C/AUS/CO/4-5), para. 16; report of the Special Rapporteur on the human rights of migrants on migrant workers (E/CN.4/2003/85), paras. 73–74; A/HRC/20/24, paras. 67–68; A/HRC/23/46, paras. 47–54; Report of the United Nations High Commissioner for Human Rights on promotion and protection of the human rights of migrants in the context of large movements (A/HRC/33/67), para. 108 (b).

[52] A/HRC/30/37, annex, principle 21, paras. 45–46; A/HRC/7/4, para. 53; A/HRC/13/30, para. 58; A/HRC/29/36, para. 111.

[53] CMW/C/TUR/CO/1, para. 48 (c); CAT/C/CYP/CO/4, para. 17 (c); CAT/C/AUS/CO/4-5, para. 16; General Assembly resolution 63/184, "Protection of migrants", para. 9; UNHCR, Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention (2012), guideline 4.3; New York Declaration for Refugees and Migrants, para. 33; E/CN.4/2003/85, para. 75 (f); A/HRC/20/24, paras. 48–67 and 73; A/HRC/23/46, paras. 48 and 92; A/HRC/29/36, paras. 45, 65, 70 and 88; A/HRC/31/57, para. 37; Report of the Working Group on Arbitrary Detention on the visit of the Working Group to the United Kingdom of Great Britain and Northern Ireland on the issue of immigrants and asylum seekers (E/CN.4/1999/63/Add.3), para. 33; A/HRC/7/4, paras. 53–54; A/HRC/13/30, para. 65; A/HRC/31/3[illegible] par[illegible]s. 47–49; UNHCR and OHCHR, Global Roundtable on Alternatives to Detention of Asy[illegible]eekers, Refugees, Migrants and Stateless Persons: Summary Conclusions (2011); International Detention Coalition and La Trobe Refugee Research Centre, *There are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention* (2015).

[54] CEDAW, general recommendation No. 32, para. 34; CMW, general comment No. 2, paras. 45–46; CRPD, concluding observations on the initial report of the European Union (CRPD/C/EU/CO/1), paras. 34–35; E/CN.4/2003/85, paras. 41–51; A/HRC/20/24, paras. 36–47; A/HRC/13/30, para. 56; report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/28/68), paras. 48 and 86 (g); UNHCR, Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, guideline 9; International Detention Coalition, *Legal Framework and Standards Relating to the Detention of Refugees, Asylum seekers and Migrants: A Guide* (2011), standard No. 2; OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, principle 7 and guidelines 2 (6) and 6 (1). Guideline 5 (5) also calls on States to ensure "that law enforcement efforts do not place trafficked persons at risk of being punished for offences committed as a consequence of their situation".

[55] Convention on the Rights of the Child, arts. 2, 3, 9, 22 and 37; CRC, general comment No. 6, para. 61; CRC, report of the 2012 day of general discussion on the rights of all children in the context of international migration, paras. 78–80; CAT/C/AUS/CO/4-5, para. 16; CMW, general comment No. 2,

para. 33; CMW/C/TUR/CO/1, para. 48 (b); New York Declaration for Refugees and Migrants, para. 56; A/71/413, paras. 39–40 and 62; A/HRC/13/30, para. 60; A/HRC/28/68, throughout and specifically on child migrants in paras. 59–62, 66, 67, 80–83 and 85; A/HRC/20/24, paras. 38–41; A/HRC/29/36, paras. 44 and 112; A/HRC/31/35, paras. 44–45; OHCHR, "Human rights are for all, even for migrants"; OHCHR, "Children and families should never be in immigration detention – UN experts"; UNHCR, Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, guideline 9.2; UNHCR, *Beyond Detention: A Global Strategy to Support Governments to End the Detention of Asylum-Seekers and Refugees 2014–2019* (2014); UNHCR, UNHCR's position regarding the detention of refugee and migrant children in the migration context (2017).

[76] CMW and CRC, joint general comment No. 4 and No. 23, paras. 5, 6 and 10–12; Inter-American Court of Human Rights, Advisory Opinion OC-21/14, paras. 158 and 160; A/HRC/28/68, throughout and specifically on child migrants at para. 80; A/HRC/20/24, para. 72 (b); OHCHR, "Children and families should never be in immigration detention – UN experts".

[77] ICCPR, art. 9 (1).

[78] See, for example, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment principle 14; Human Rights Committee, general comment No. 35, paras. 24–30; report of the Working Group on Arbitrary Detention, deliberation No. 5 on the situation regarding immigrants and asylum seekers (E/CN.4/2000/4, annex II), principles 1 and 8.

[79] For instance, migrants should be provided with information on their right to challenge a decision, to seek legal aid, to communicate with consular authorities or other bodies and to have interpretation/translation services. Decisions should also be subject to judicial review. See Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 13; A/HRC/30/37, annex, principle 21; Human Rights Committee, general comment No. 35, para. 18; CRPD/C/EU/CO/1, para. 34.

[80] Human Rights Committee, general comment No. 35, para. 46; CAT, general comment No. 2, para. 13; CMW, general comment No. 2, paras. 36–48; CEDAW, general recommendation No. 33, throughout and especially paras. 48, 49 and 51 (n); CRPD/C/EU/CO/1, paras. 34–35; A/HRC/31/57, paras. 16–20, 31, 32, 34–36, 68, 70 and 71; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principles 17 and 18; A/HRC/33/51, paras. 58, 74 and 76.

[81] ICCPR, art. 9 (4); Human Rights Committee, general comment No. 35, paras. 39–48; CMW, general comment No. 2, paras. 27, 30, 32 and 33; E/CN.4/2000/4, annex II, principles 3 and 6.

[82] CMW, general comment No. 2, paras. 23-35, 38 and 39; CMW/C/TUR/CO/1, para. 48 (a); CAT, concluding observations of the fourth and fifth periodic report of Bulgaria (CAT/C/BGR/CO/4-5), para. 9; CAT/C/AUS/CO/4-5, para. 16; CERD/C/ESP/CO/18-20, para. 13 (b); CERD, Concluding observations on the nineteenth to twenty-first periodic reports of Cameroon (CERD/C/CMR/CO/19-21), para. 18; CCPR/C/USA/CO/4, para. 15; CEDAW, general recommendation No. 26, para. 26 (j); CEDAW, general recommendation No. 33, para. 53 (c); E/CN.4/2000/4, annex II, principles 1, 6 and 7; A/HRC/13/30, paras. 59 and 64; A/HRC/30/37, annex, principle 21, para. 42; A/HRC/13/30, paras. 59 and 61; Working Group on Arbitrary Detention, preliminary findings from its visit to the United States of America, E/CN.4/2003/85, paras. 20–34, 35, 74 and 75; A/HRC/20/24, in particular paras. 8–12 and 72; A/HRC/23/46, paras. 51–52; A/HRC/29/36, paras. 41–45; A/HRC/31/57, para. 70 (c); A/HRC/31/35, paras. 40–46.

[83] Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). See also ICCPR, art. 10; ICMW, art. 17; United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules); United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules); United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules); United Nations Rules for the Protection of Juveniles Deprived of their Liberty; Guidelines for Action on Children in the Criminal Justice System; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 8 (7)–(12); CERD/C/ESP/CO/18-20, para. 13 (b); Human Rights Committee, concluding observations on the fourth periodic report of France (CCPR/C/FRA/CO/4), para. 18; CCPR/C/LVA/CO/3, para. 14 (e); CMW, general comment No. 2, paras. 40 and 42; CEDAW, general recommendation No. 32, para. 34; CEDAW, general recommendation No. 33, para. 53 (c); A/HRC/20/24, in particular paras. 25–32 and 72; A/HRC/31/57, paras. 32, 33 and 70 (s) and (u); Association for the Prevention of Torture and UNHCR, *Monitoring Immigration Detention: Practical Manual* (2014), in particular sections 4.4 and 4.6.

[84] ICMW, art. 17 (2) and (3); Human Rights Committee, general comment No. 35, paras. 14 and 18; CMW, general comment No. 2, paras. 24 and 37–39; Human Rights Committee, c observations on the sixth periodic report of New Zealand (CCPR/C/NZL/CO/6), para. 38 (b); E/CN.4/2000/4, annex

II, principle 9; E/CN.4/2003/85, paras. 17, 18, 41, 46, 53, 56, 63, 73 and 75 (i) and (n); A/HRC/20/24, paras. 31 and 33–35; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 8 (9). Where facilities are operated by private contractors, States have a duty to hold them accountable for any human rights violations committed in the course of their operations. See Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework.

[87] Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). See also Human Rights Committee, general comment No. 35, paras. 14 and 18; CMW, general comment No. 2, paras. 23-35; A/HRC/29/36, para. 42; A/HRC/31/57, paras. 35 and 41; Association for the Prevention of Torture and UNHCR, *Monitoring Immigration Detention*, in particular sections 4.1, 4.2, 4.3 and 4.5.

[88] Optional Protocol to the Convention against Torture, arts. 19 and 20; Human Rights Committee, general comment No. 20, para. 11; CMW, general comment No. 2, para. 36 (b); CERD, general recommendation No. 31 (2004) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, paras. 98–108; CERD/C/ESP/CO/18-20, para. 13 (b); CEDAW, general recommendation No. 33, para. 51 (n); annual report of the Special Representative of the Secretary-General on Violence against Children (A/71/206), para. 114; E/CN.4/2000/4, annex II, principle 10; E/CN.4/2003/85, para. 75 (i); A/HRC/20/24, para. 32; report of the Special Rapporteur on the human rights of migrants on his mission to Greece (A/HRC/23/46/Add.4), para. 102; A/HRC/31/57, paras. 38, 39 and 70 (y); OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 8 (18) and (19); Association for the Prevention of Torture and UNHCR, *Monitoring Immigration Detention*.

[89] Vienna Convention on Consular Relations, in particular articles 5 (a) and (e) and 36 (1); Protocol against the Smuggling of Migrants by Land, Sea and Air, art. 16 (5); Human Rights Committee, general comment No. 35, para. 58; CERD, general recommendation No. 31, paras. 23, 26 (d) and 38 (a); CEDAW, general recommendation No. 26, para. 24 (j); CEDAW, general recommendation No. 30, para. 60; CMW, general comment No. 1 (2011) on migrant domestic workers, paras. 62–64; CMW, general comment No. 2, paras. 6, 30, 34 and 59; CMW/C/PER/CO/1, para. 35; CMW/C/SEN/CO/2-3, paras. 19 and 31; CMW/C/TUR/CO/1, para. 56 (a) and (b); CMW/C/HND/CO/1, paras. 37 (b) and 39; A/HRC/30/37, guideline 21, para. 110; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 16 (2); Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), rule 62; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guidelines 4 (11), 5 (5) and 8 (16); General Assembly resolution 70/147, para. 4 (k); A/71/285, para. 98; Inter-American Court of Human Rights, Advisory Opinion OC-21/14, paras. 126–128 and 202–203.

[90] OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guidelines 4 (11) and 8 (16).

[91] Human Rights Committee, general comment No. 35, paras. 8–9; CMW, general comment No. 2, para. 39; CMW, concluding observations on the second periodic report of Bosnia and Herzegovina (CMW/C/BIH/CO/2), para. 22; CMW/C/HND/CO/1, para. 29; E/CN.4/2003/85, para. 22; A/HRC/20/24, para. 35; Guiding Principles on Business and Human Rights; A/HRC/31/35, para. 46.

[92] CMW and CRC, joint general comment No. 4 and No. 23, paras. 28–29.

[93] Convention on the Rights of the Child, arts. 5, 10 and 22; ICMW, art. 44; ILO, Migrant Workers (Supplementary Provisions) Convention (No. 143), art. 13 (1); Human Rights Committee, general comment No. 19 (1990) on the family, para. 5; CEDAW, general recommendation No. 26, para. 26 (e); CMW and CRC, joint general comment No. 4 and No. 23, para. 37; CRC, general comment No. 6, paras. 3, 13, 79–83 and 92; New York Declaration for Refugees and Migrants, para. 57; Inter-American Court of Human Rights, Advisory Opinion OC-21/14, paras. 84, 105 and 167.

[94] Convention on the Rights of the Child, art. 10 (1).

[95] Convention on the Rights of the Child, arts. 3, 5, 9, 10, 12, 16 and 22 (2); CMW and CRC, joint general comment No. 4 and No. 23, paras.28–29; CRC, general comment No. 6, paras. 79–83; CRC, general comment No. 14, para. 40; OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, guideline 8 (4) and (6); Declaration of the High-level Dialogue on International Migration and Development, para. 13; General Assembly resolution 70/147, para. 5 (d); A/HRC/23/46, paras. 47–49 and 72; Working Group on Arbitrary Detention, preliminary findings from its visit to the United States of America.

[96] CRC, general comment No. 6, paras. 79–83; CMW and CRC, joint general comment No. 4 and No. 23, paras. 34–35.

[97] Convention on the Rights of the Child, art. 10 (1).

[98] Convention on the Rights of the Child, arts. 5 and 9; Human Rights Committee, general comment No. 19, para. 2; Human Rights Committee, general comment No. 16 (1988) on the right to privacy, para. 5; CEDAW, general recommendation No. 21 (1994) on equality in marriage and family relations.

para. 13; CRC, general comment No. 7 (2005) on implementing child rights in early childhood, para. 15; Beijing Platform for Action, para. 29; General Assembly resolution S-27/2, "A world fit for children", para. 15; Inter-American Court of Human Rights, Advisory Opinion OC-21/14, para. 272.

[97] Human Rights Committee, general comment No. 19, para. 5; CMW/C/HND/CO/1, para. 55 (d) and (e); Inter-American Court of Human Rights, Advisory Opinion OC-21/14, para. 280.

[98] CMW and CRC, joint general comment No. 4 and No. 23, para. 50.

[99] Convention on the Rights of the Child, preamble and arts. 6 (2) and 27; CRC, general comment No. 5 (2003) on general measures of implementation of the Convention, para. 12; CRC, general comment No. 6, paras. 23, 40 and 44; CRC, general comment No. 14, paras. 4, 5, 16 (c), 34, 42, 51, 71, 76 and 84; CMW and CRC, joint general comment No. 3 and No. 22, paras. 21–44; A/71/413, para. 34; H. Yoshikawa and J. Kholoptseva, *Unauthorized Immigrant Parents and Their Children's Development: A Summary of the Evidence* (Migration Policy Institute, 2013); Z. Bruckauf, Y. Chzhen and E. Toczydlowska, *Bottom-end Inequality: Are Children With an Immigrant Background at a Disadvantage?* (Innocenti Research Brief 2016-07).

[100] CMW and CRC, joint general comment No. 3 and No. 22, paras. 27–33; CRC, general comment No. 20, para. 77; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, principle A (6); A/HRC/28/68, para. 73; A/71/413, paras. 9 and 55; OHCHR, "Calais camp: French and UK Governments fell well short of their child rights obligations – UN experts".

[101] CMW and CRC, joint general comment No. 4 and No. 23, paras. 14–19.

[102] Convention on the Rights of the Child, arts. 2, 3 and 12; CMW and CRC, joint general comment No. 3 and No. 22, paras. 34–39; CRC, general comment No. 6, especially paras. 19–22, 25, 31–40 and 63; CRC, general comment No. 12 (2009) on the right of the child to be heard; CRC, general comment No. 14; New York Declaration for Refugees and Migrants, para. 32; A/71/413, paras. 9, 15, 20, 24, 31, 33–36, 38–40, 45, 55, 56, 58 and 62; A/HRC/31/35, paras. 17, 18, 44 and 67 (f).

[103] Convention on the Rights of the Child, arts. 13 and 17; CMW and CRC, joint general comment No. 4 and No. 23, para. 17 (j); CRC, general comment No. 6, paras. 25 and 37; A/71/413, paras. 31 and 57.

[104] CMW and CRC, joint general comment No. 3 and No. 22, para. 32 (i); CRC, general comment No. 6, paras. 19–22; A/71/413, para. 45. For refugee children, UNHCR has developed guidance on how to operationalize the principle of the best interests of the child. It focuses on refugee situations but could be adapted for children who are not refugees. See UNHCR, Guidelines on Determining the Best Interests of the Child (2008).

[105] CMW and CRC, joint general comment No. 4 and No. 23, para. 4. Guidance on good practice for age assessments can be found from the following sources, inter alia: European Asylum Support Office, *Age Assessment Practice in Europe*; UNHCR and UNICEF, *Safe and Sound: What States Can Do To Ensure Respect for the Best Interests of Unaccompanied and Separated Children in Europe* (2014); T. Smith and L. Brownlees, *Age Assessment: A Technical Note* (UNICEF, 2013); and Separated Children in Europe Programme, *Position Paper on Age Assessment in the Context of Separated Children in Europe: 2012*.

[106] CRC, general comment No. 10, para. 39; CRC, general comment No. 6, para. 31 (i); Council of Europe Parliamentary Assembly, resolution 1810(2011), para. 5.10.

[107] CMW and CRC, joint general comment No. 3 and No. 22, para. 14.

[108] Adapted from General Assembly resolution 70/147, para. 9 (c). See also OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, guideline 8 (10); and A/71/413, para. 63.

[109] Convention on the Rights of the Child, art. 20; CRC, general comment No. 6.

[110] CRC, general comment No. 6, paras. 21, 24, 25, 33–38, 55, 89 and 95; A/71/413, paras. 27 and 35; Inter-American Court of Human Rights, Advisory Opinion OC-21/14, paras. 132–136; Save the Children, submission to OHCHR for its report on migrants in transit (A/HRC/31/35), p. 5.

[111] CRC, general comment No. 6, paras. 33, 36, 37, 39, 40, 63, 69 and 95; CRC, general comment No. 14, particularly paras. 94–95; A/71/413, paras. 27, 45 and 63.

[112] CMW and CRC, joint general comment No. 4 and No. 23, para. 3; CRC, report of the 2012 day of general discussion, paras. 68–69; Parliamentary Assembly of the Council of Europe, resolution 1996(2014), "Migrant children: what rights at 18?", para. 10 (4).

[113] Convention on the Rights of the Child, art. 7; CMW and CRC, joint general comment No. 4 and No. 23, paras. 20–22; CRC, general comment No. 7, paras. 25 and 36 (b); CRC, general comment No. 20, para. 41; CEDAW, general recommendation No. 32, paras. 56 and 63 (m); 2030 Agenda for Sustainable Development, Sustainable Development Goals target 16.9; Human Rights Council resolution 28/13, "Birth registration and the right of everyone to recognition everywhere as a person before the law", para. 2 (c).

[114] CEDAW, general recommendation No. 26, para. 23 (b); CEDAW, general recommendation No. 28, para. 27; Beijing Declaration, paras. 13 and 19 and Platform for Action, paras. 1, 60 (d), 181, 185 and 205 (d); UN-Women, Closing the Gender Gap in Humanitarian Action: Agents of Change.

[115] CEDAW, general recommendation No. 26, paras. 5, 7, 12, 13, 22, 23 (a), 25 and 26; CEDAW, general recommendation No. 27, para. 50; CEDAW, general recommendation No. 32, paras. 16, 31 and 50 (b), (d) and (f).

[116] CEDAW, general recommendation No. 32, para. 34. See also UN-Women, Closing the Gender Gap in Humanitarian Action; Women's Refugee Commission, "Protecting and empowering women and girls in situations of mass displacement", Global Migration Group multi-stakeholder meeting in preparation for the high-level plenary meeting of the General Assembly on addressing large movements of refugees and migrants, Beijing Platform for Action, para. 125 (h) and (i); UN-Women, Gender Assessment of the Refugee and Migration Crisis in Serbia and FYR Macedonia.

[117] ICMW, art. 16 (2); ICERD, art. 5 (b); CAT, general comment No. 3, para. 18; CEDAW, general recommendation No. 19, para. 24 (a), (k) and (t) (iii); CEDAW, general recommendation No. 30, para. 81 (k); CEDAW, general recommendation No. 32, paras. 46 and 50 (f); CERD, general recommendation No. 25, para. 2; CMW, general comment No. 2, paras. 21 and 22; CRPD, general comment No. 3, para. 49; Beijing Platform for Action, para. 125 (a) – (c); General Assembly resolution 70/130; report of the Secretary-General on violence against women migrant workers (A/70/205), para. 67; Council of Europe, Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), arts. 4 (1), 5 (1), 12 (2) and (3), 18, 20, 22, 23 and 25; Inter-Agency Standing Committee, *Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing Risk, Promoting Resilience and Aiding Recovery* (2015); Women's Refugee Commission, *EU–Turkey Agreement Failing Refugee Women and Girls* (2016).

[118] CEDAW, general recommendation No. 26, paras. 25 (a) and 26 (g); CEDAW, general recommendation No. 32, paras. 34 and 44; Beijing Platform for Action, para. 232 (i); Council of Europe, Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), art. 15; A/HRC/31/57, para. 69.

[119] CEDAW, general recommendation No. 26, paras. 5 and 23 (a); CMW and CRC, joint general comment No. 3 and No. 22, para. 24; Beijing Platform for Action, para. 124 (g); A/71/285, para. 123; 2030 Agenda for Sustainable Development, para. 20 and Sustainable Development Goals target 1 (b); New York Declaration for Refugees and Migrants, para. 31; OHCHR, "Addressing gender dimensions in large-scale movements of refugees and migrants", joint statement by CMW, CEDAW, UN-Women and OHCHR, 19 September 2016.

[120] CEDAW, general recommendation No. 26, paras. 5, 10, 13, 24 (a) and 26 (a); A/71/285, paras. 59 and 123.

[121] CEDAW, general recommendation No. 26, paras. 5, 10, 13, 24 (a) and 26 (a); CEDAW, general recommendation No. 30, para. 40; 2030 Agenda for Sustainable Development, para. 8 and Sustainable Development Goals targets 5.1, 5.5 and 16 (b); A/71/285, paras. 59 and 123; ILO Committee of Experts, Promoting fair migration, General Survey concerning the migrant workers instruments, ILC.105/III(1B), 2016, para. 543; UN-Women, *Recommendations on Addressing Women's Human Rights in the Global Compact on Safe, Orderly and Regular Migration* (2017) in particular paras. 1.1, 1.3, 2.1, 2.2 and 5.12.

[122] CEDAW, general recommendation No. 26, paras.24 (a) and 26 (a).

[123] CESCR has noted that States have an obligation to ensure that all migrants have equal access to preventive, curative and palliative health services, regardless of their migration or residence status and documentation. See E/C.12/2017/1, paras. 5, 6, 9, 11, 12 and 15, and general comment No. 14, para. 34. The World Health Organization has also affirmed that health measures must be implemented without discrimination, see *International Health Regulations*, 2nd ed. (2005), art. 42. See also CESCR, general comment No. 20, para. 30; Convention on the Rights of the Child, art. 24 (1); CRC, general comment No. 3, paras. 21, 22 and 28; CERD, general recommendation No. 30, paras. 29 and 36; CMW, general comment No. 2, paras. 73–74; CRPD, general comment No. 3, paras. 39 and 49; report of the Special Rapporteur on the human rights of migrants (A/HRC/14/30), paras. 10–15, 19, 20, 26, 29, 31, 33, 34, 37, 71 and 72; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 6 (6) and (7); Parliamentary Assembly of the Council of Europe, "Europe's boat people: mixed migration flows by sea into southern Europe", resolution 1637 (2008), para. 9.13.

[124] CESCR, general comment No. 14, paras. 36 and 44 (b); CRC, general comment No. 15, para. 41; 2030 Agenda for Sustainable Development, Sustainable Development Goals target 3.8; "Study of the Office of the United Nations High Commissioner for Human Rights on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration" (A/HRC/15/29), para. 63.

[125] CESCR, general comment No. 14, paras. 3, 12 (b), 18, 27, 34, 43 (a), 50, 54 and 57; CRC, general comment No. 15, paras. 8–11, 21, 72, 83, 94, 98, 104 and 114; A/HRC/15/29, paras. 62–63.

[126] Programme of Action of the International Conference on Population and Development, para. 7.11 and chaps. VII and VIII; CESCR, general comment No. 14, in particular paras. 11, 12, 14, 18, 21, 22, 23, 34–37, 44 (a) and (d) and 50; CESCR, general comment No. 6 (1995) on the economic, social and cultural rights of older persons, para. 34; CRC, general comment No. 3, paras. 6, 7, 11, 16, 17, 20 and 23; CRC, general comment No. 4 (2003) on adolescent health and development in the context of the Convention, paras. 26–33, 39 (b) and 40; CRC, general comment No. 15, paras. 10, 15, 54, 58–61, 69 and 114; CEDAW, general recommendation No. 24, paras. 11, 13, 14, 15 (a), 16, 18, 21, 22, 24, 25, 28, 29 and 31; CEDAW, general recommendation No. 27, paras. 18 and 46; United Nations Principles for Older Persons, principles 11 and 14; 2030 Agenda for Sustainable Development, para. 26 and Sustainable Development Goals target 3.8.

[127] CESCR, general comment No. 22; CRC, general comment No. 4, in particular paras. 20, 28, 30, 31, 39 (c), 40 and 41 (a); CRC, general comment No. 15, paras. 10, 54, 56, 60, 69 and 70; Commission on the Status of Women, agreed conclusions of the fifty-eighth session, "Challenges and achievements in the implementation of the Millennium Development Goals for women and girls", paras. 23, 24, 42 (o) and 42 (p); Commission on the Status of Women, agreed conclusions of the sixtieth session, para. 23 (k) and (o); 2030 Agenda for Sustainable Development, para. 26 and Sustainable Development Goals targets 3.1, 3.7 and 5.6; New York Declaration for Refugees and Migrants, paras. 30–31; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 7 (6).

[128] Interagency Working Group on Reproductive Health in Crises, Minimum Initial Service Package for Reproductive Health in Crisis Situations.

[129] Political Declaration on HIV and AIDS: Intensifying our Efforts to Eliminate HIV and AIDS (General Assembly resolution 65/277, annex), paras. 39–41, 59 (f), 60, 61, 77, 79, 80 and 84; Human Rights Council resolution 16/28, "The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS)", paras. 1, 8 (e), 14, 16 and 20; New York Declaration for Refugees and Migrants, para. 30.

[130] Political Declaration of the High-level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases (General Assembly resolution 66/2, annex); 2030 Agenda for Sustainable Development, Sustainable Development Goals target 3.5; UNHCR, *Working with Persons with Disabilities in Forced Displacement* (2011).

[131] CESCR, general comment No. 14, paras. 17, 22, 26, 27, 34, 36, 49 and 53; CRC, general comment No. 4, paras. 6, 10, 35, 39 (i) and 41 (a); CRC, general comment No. 6, paras. 22, 44 and 48; Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (General Assembly resolution 46/119, annex); 2030 Agenda for Sustainable Development, paras. 7 and 26 Sustainable Development Goals target 3.4; A/HRC/15/29, paras. 51 and 76; UNHCR, IOM, MHPSS.net and signatory agencies, *Mental Health and Psychosocial Support for Refugees, Asylum Seekers and Migrants on the Move in Europe: A Multi-Agency Guidance Note* (2015); Inter-Agency Standing Committee, Guidelines on Mental Health and Psychosocial Support in Emergency Settings (2007); Y. Fassil and A. Barnett, *Commissioning Mental Health Services for Vulnerable Adult Migrants: Guidance for Commissioners* (Mind, with the Faculty for Homeless and Inclusion Health Pathway, 2014).

[132] With specific reference to health services, CMW has affirmed: "States parties shall not require public health institutions to report or otherwise share data on the migration status of a patient to immigration authorities, and health care providers should also not be required to do so." See general comment No. 2, para. 74. See also "firewall" in the glossary of key terms in the present document; European Union Fundamental Rights Agency, *Apprehension of Migrants in an Irregular Situation*, preamble; Crepeau and Hastie, "The case for 'firewall' protections", pp. 157–183; European Commission against Racism and Intolerance, general policy recommendation No. 16.

[133] CMW, general comment No. 2, para. 77.

[134] ICCPR, art. 10 (1); ICMW, art. 17 (1); United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), rules 6–18, 25 (2), 34, 35, 38, 39, 41 (d), 48 and 51(1); United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), rules 18, 19 (1), 22, 24–35, 42, 46, 84 (2), 92 (2), 105, 109 and 110; CMW, general comment No. 2, paras. 36 and 46; A/HRC/13/30, para. 65; A/HRC/20/24, paras. 25–26; A/71/285, para. 90.

[135] ICESCR, art. 11 (1); Convention on the Rights of the Child, arts. 24 and 27; Convention on the Elimination of All Forms of Discrimination against Women, art. 12; Convention on the Rights of Persons with Disabilities, art. 28. See also CESCR, general comment No. 4 (1991) on the right to adequate housing, particularly paras. 6, 7, 11 and 12; CESCR, general comment No. 6, para. 32; CESCR, general comment No. 12 (1999) on the right to adequate food, paras. 4, 18, 38 and 39; CESCR, general comment No. 15 (2002) on the right to water, paras. 13, 16, 28, 34 and 60; CESCR, general comment No. 20, paras. 3, 6 and 8; E/C.12/2017/1, paras. 3, 4, 5, 6, 9, 11, 14 and 15; CRC,

general comment No. 6, paras. 3, 44 and 45; CRPD, general comment No. 2, para. 42; CPRD, general comment No. 3, paras. 55 and 59; United Nations Principles for Older Persons, principle 14; 2030 Agenda for Sustainable Development, Sustainable Development Goals targets 6.1, 6.2 and 11.1. See further New York Declaration for Refugees and Migrants, para. 11 ("... we stress [that migrants] need to live their lives in safety and dignity"); New Urban Agenda, para. 28; UNHCR, *Working with Persons with Disabilities in Forced Displacement* (2011).

[129] The Commission on Human Settlements defines adequate shelter as "adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities – all at a reasonable cost". See also General Assembly resolution 46/163, "Global Strategy for Shelter to the Year 2000"; report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living on migration and the right to adequate housing (A/65/261); report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living on the elements of a general framework of disaster response based on the right to adequate housing (A/66/270); L. Farha, "Is there a woman in the house? Re conceiving the human right to housing", *Canadian Journal of Women and the Law*, vol. 14, No 1 (2002), pp. 118–141; CERD, general recommendation No. 30, para. 29 (on State obligations with respect to the right of non-citizens to housing); OHCHR and UN-Habitat, *The Right to Adequate Housing*, Fact Sheet No. 21 (Rev. 1) (2014); New Urban Agenda, paras. 20, 28, 32 and 33.

[130] CESCR, general comment No. 4, para. 12; CESCR, general comment No. 6, para. 32 (2); E/C.12/2017/1, para. 14; New Urban Agenda, paras. 31, 21 and 48.

[131] CESCR, general comment No. 4; report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, "basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I); Commission on Human Rights resolution 1993/77, "Forced evictions", para. 1.

[132] See the glossary of key terms in the present document. See also European Union Fundamental Rights Agency, *Apprehension of Migrants in an Irregular Situation*, preamble; Crepeau and Hastie, "The case for 'firewall' protections", p. 157–183; European Commission against Racism and Intolerance, general policy recommendation No. 16.

[133] E/CN.4/2005/48, paras. 13 and 43; A/HRC/31/54, paras. 2, 16, 17, 34, 38 and 46.

[134] Report of the Working Group on Arbitrary Detention (A/HRC/27/48), paras. 78–79 and 91; A/HRC/30/37, annex, guideline 21, para. 114; A/HRC/31/57, para. 41; OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, guideline 6 (1); Council of Europe, Convention on Action against Trafficking in Human Beings (CETS No. 197), arts. 3 and 12 (7).

[135] ICESCR, art. 6 (1). CESCR has made clear that the right to work does not imply "an absolute and unconditional right to obtain employment". It implies that a person may freely choose or accept work, "not being forced in any way whatsoever to exercise or engage in employment", that a person may not be "unfairly deprived of employment", and that he or she has "the right of access to a system of protection" guaranteeing access to employment. CESCR, general comment No. 23 (2016) on the right to just and favourable conditions of work, para. 6. Regarding the content of the right to work in the context of migration, CESCR has noted that "article 2 (3) of the Covenant establishes one limited exception to the principle of non-discrimination on grounds of nationality in the enjoyment of the rights of the Covenant. This provision states that 'Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.' That exception only applies to developing countries and it only concerns economic rights, in particular access to employment. It allows those States to determine the extent to which they will guarantee such rights, without allowing them to deny the enjoyment of such rights entirely. While acknowledging the concerns related to the protection of access to employment by nationals, the Committee notes, however, that a migrant who has access to employment, or to self-employment, generally will contribute to the domestic economy (whereas he or she may require social assistance if left without any means of earning an income)." The Committee further identifies migrant workers as a group whose rights are particularly at risk. It notes that such workers, "in particular if they are undocumented, are vulnerable to exploitation, long working hours, unfair wages and dangerous and unhealthy working environments" (para. 47 (e)). See also E/C.12/2017/1, paras. 3, 4, 5, 6, 8, 9, 11 and 13; CESCR, general comment No. 18 (2005) on the right to work, para. 18; CERD, general recommendation No. 30, para. 2; CMW/C/SEN/CO/2-3, para. 23 (a); ILO, Declaration on Fundamental Principles and Rights at Work (1998); 2030 Agenda for Sustainable Development, paras. 9 and 27 and Sustainable Development Goals target 8.8.

[136] ILO, Declaration on Social Justice for a Fair Globalization. See also ICESCR, arts. 6 (1) and 7; ICMW, art. 25; CESCR, general comment No. 18 (2005) on the right to work, paras. 6 and 23.

CERD, general recommendation No. 30, paras. 33–35; CMW, general comment No. 2, paras. 62–63; New York Declaration for Refugees and Migrants, para. 57; A/70/59, para. 65.

144 ILO, Migrant Workers (Supplementary Provisions) Convention (No. 143), art. 14 (b); CESCR, general comment No. 23; CEDAW, general recommendation No. 26, paras. 13–15; CMW/C/SEN/CO/2-3, para. 23 (d); CMW/C/TUR/CO/1, para. 58 (a) and (b); 2030 Agenda for Sustainable Development, Sustainable Development Goals targets 1.3 and 10.4; report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/71/385), paras. 11, 22, 27, 28, 94, 98 (m), (v) (b), (viii) and (ix), 100 (m), 101 (n) and 102 (t).

145 CESCR, general comment No. 23, paras. 4, 5, 26, 47 (iv) and (v), 53, 56, 59, 62 and 64; CMW/C/TUR/CO/1, para. 58 (b); Beijing Platform for Action, paras. 158 and 165 (a), (b), (c) and (r).

146 CEDAW, general recommendation No. 26, paras 18 and 26 (a).

147 On labour inspectors, see CESCR, general comment No. 23, para. 54; CMW, general comment No. 2, para. 63; and CMW/C/TUR/CO/1, para. 58 (c) and (d). On firewalls more generally, see the glossary of key terms in the present document. See also European Union Fundamental Rights Agency, *Apprehension of Migrants in an Irregular Situation*; Crepeau and Hastie, "The case for 'firewall' protections", pp. 157–183; European Commission against Racism and Intolerance, general policy recommendation No. 16; ILO, Committee of Experts, *Labour Inspection* (providing a general survey of labour inspection instruments) (2006), paras. 78 and 161; ILO, Committee of Experts, Promoting fair migration — General Survey concerning the migrant workers instruments, paras. 480–482.

148 ILO, Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), art. 1; CESCR, general comment No. 23, paras. 29 and 57.

149 ILO, General Principles and Operational Guidelines on Fair Recruitment (2016).

150 ICESCR, arts. 13 (2) (a) and (b) and 14; Convention on the Rights of the Child, arts. 23(3) and 28; Convention on the Rights of Persons with Disabilities, art. 24; ICMW, art. 30; CRC, general comment No. 6, paras. 43–43; CRC, general comment No. 20, para. 70; CRC, general comment No. 7, paras. 24 and 36 (c); E/C.12/2017/1, paras. 3, 4, 5, 6, 9 and 11; CESCR, general comment No. 11 (1999) on plans of action for primary education, paras. 6–7; CESCR, general comment No. 13 (1999) on the right to education, in particular paras. 9, 13, 14, 24 and 34; CESCR, general comment No. 20, para. 30; CERD, general recommendation No. 30, paras. 29–30; CMW, general comment No. 1, para. 57; CMW, general comment No. 2, paras. 75, 76 and 79; Declaration of the High-level Dialogue on International Migration and Development, para. 13; 2030 Agenda for Sustainable Development, paras. 20 and 25 and Sustainable Development Goals targets 4.1 and 4.5; General Assembly resolution 70/147, para. 5 (t); New York Declaration for Refugees and Migrants, para. 32; Human Rights Council resolution 20/3, particularly paras. 2–4; UNESCO, Convention against Discrimination in Education, art. 3 (e).

151 On the right to education, see CMW, general comment No. 2, para. 77. See also European Union Fundamental Rights Agency, *Apprehension of Migrants in an Irregular Situation*, principles 4 and 5 and preamble; Crepeau and Hastie, "The case for 'firewall' protections", pp. 157–183; European Commission against Racism and Intolerance, general policy recommendation No. 16.

152 CMW, general comment No. 2, para. 77.

153 CRC, general comment No. 6, para. 42; report of the Special Rapporteur on the human rights of migrants (A/69/302), paras. 46 (b), 64 (f), 77 (e) and 96 (o); General Assembly resolution 70/147, para. 5 (f) and (t); UNESCO, Convention on the Recognition of Qualifications.

154 ICESCR, art. 13 (1); UNESCO, Convention on Promotion of the Diversity of Cultural Expressions; CRC, general comment No. 1 (2001) on the aims of education, paras. 2, 4, 11, 19 and 24; 2030 Agenda for Sustainable Development, Sustainable Development Goals target 4.7; Guidelines for the Prevention of Crime, Economic and Social Council resolution 2002/13, para. 25 (d).

155 CRC, general comment No. 6, para. 42; CESCR, general comment No. 6, paras. 36–37; Beijing Platform for Action, para. 82 (k); United Nations Principles for Older Persons, principles 4 and 16; General Assembly resolution 70/147, para. 5 (t); 2030 Agenda for Sustainable Development, para. 25 and Sustainable Development Goals targets 4.3 and 4.4.

156 ICCPR, art. 19.2; Convention on the Rights of the Child, art. 13; Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, art. 6; report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/HRC/32/38), paras. 6 and 8.

157 Beijing Platform for Action, para. 233 (t); Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression, para. 19; CRPD/C/EU/CO/1, para. 34; 2030 Agenda for Sustainable Development, Sustainable Development Goals target 16.10; report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/69/335), paras. 12, 13, 18, 19, 21, 62, 65, 83 and 89; New York Declaration for Refugees and Migrants, para. 42 (c).

[14] ILO, Migration for Employment Convention (Revised), 1949 (No. 97), para. 1 (1); A/HRC/31/67, para. 83 (recognizing that little systematic evaluation of such campaigns takes place); UNHCR, *Refugee Protection and Mixed Migration: The 10-Point Plan in Action* (2007), point 10; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 11 (c). See also Eve Browne, "Impact of communication campaigns to deter irregular migration", GSDRC Helpdesk Research Report 1248, University of Birmingham, United Kingdom of Great Britain and Northern Ireland.

[15] A/HRC/29/59, para. 22; Human Rights Council resolution 32/13, "The promotion, protection and enjoyment of human rights on the Internet", paras. 1 and 3; A/HRC/32/38, paras. 6 and 8.

[16] ICCPR, art. 17; Human Rights Council resolution 32/13, para. 8. See also Human Rights Council resolution 28/16, "The right to privacy in the digital age", para. 3 (in which the Council "affirms that the same rights that people have offline must also be protected online, including the right to privacy"); A/HRC/29/30, paras. 49–54; report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/HRC/23/40), in particular paras. 23–25, 83 and 88–90; report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/HRC/29/32), paras. 56, 57, 59 and 61; A/HRC/32/38, paras. 8 and 11; Global Network Initiative, Principles on Freedom of Expression and Privacy; B. Jones and others, *Getting to Europe the "Whatsapp" Way: The Use of ICT in Contemporary Mixed Migration Flows to Europe* (Danish Refugee Council and Regional Mixed Migration Secretariat (Horn of Africa and Yemen), 2016), on surveillance.

[17] Human Rights Council resolution 21/12 and 33/2, "Safety of journalists"; summary of the Human Rights Council panel discussion on the safety of journalists (A/HRC/27/35); UNESCO, "UN Plan of Action on the Safety of Journalists and the Issue of Impunity". See also J.-P. Matthee, "Journalists not welcome: across Europe, press and migrants increasingly barred", Committee to Protect Journalists; C. Vasilaki, "Greece: the dangers of reporting on the refugee crisis", Index on Censorship.

[18] See the sections on monitoring and accountability under each guideline in OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders. See also A/HRC/23/46, paras. 29–38, 45–57, 93 and 104 and annex, para. 50 (c); 70, 102, 103 and 104; A/HRC/29/36, paras. 38–40, 107, 117, 128, 138 and 139.

[19] Optional Protocol to the Convention against Torture, arts. 19 and 20; A/HRC/23/46/Add.4, para. 111 (d); International Federation of the Red Cross and Red Crescent Societies, "Migration: ensuring access, dignity, respect for diversity and social inclusion", resolution adopted at the thirty-first International Conference of the Red Cross and Red Crescent (2011); para. 1; World Humanitarian Summit, Migrants and Humanitarian Action, Special Session Summary; All Core Responsibilities of the Agenda for Humanity; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guidelines 1 (4), 5 (9), 6 (18), 8 (19) and 9 (21).

[20] OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 1 (4); 2030 Agenda for Sustainable Development, Sustainable Development Goals target 16.9 and 10 (a).

[21] OHCHR, *National Mechanisms for Reporting and Follow-up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms* (2016).

[22] CMW, general comment No. 2, para. 36 (c); CEDAW, general recommendation No. 26, para. 26 (c) (i); CAT, general comment No. 3, paras. 5 and 23–28; General Assembly resolution 69/167, "Protection of migrants", para. 3 (b); OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 3 (8).

[23] Human Rights Committee, general comment No. 20, especially para. 14, and general comment No. 32; CERD, general recommendation No. 31, especially paras. 11, 14 and 28; CEDAW, general recommendation No. 33, especially paras. 11, 18 (e), 27, 51 (a) and 51 (b); CMW, general comment No. 2, especially paras. 21 (b) and (c) and 36 (d) and (e); CMW/C/TJK/CO/1, paras. 34, 42 (b), 50 (a), 54 (a) and 60 (d); CMW/C/HND/CO/1, paras. 25 (b) and 33 (e); General Assembly resolution 67/187, para. 7; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, principle 13 and guidelines 1 (2.6), 2 (15), 3 (17), 7 (11) and 8 (20).

[24] OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guidelines 2 (11) and 5 (17); A/HRC/31/35, paras. 13–14; UNODC, *Corruption and the Smuggling of Migrants*, issue paper (2013); 2030 Agenda for Sustainable Development, Sustainable Development Goals target 16.5.

Freedom, art. 9 (1) and (2); ILO Migration for Employment Convention (Revised), 1949 (No. 97), art. 6 (1) (d); ILO Migrant Workers (Supplementary Provisions) Convention (No. 143), art. 9 (2); ILO Protocol of 2014 to the Forced Labour Convention, 1930 (Protocol No. 29), arts. 1 (1) and 4 (1); CAT, general comment No. 3 (2012), para. 41; CCPR, general comment No. 22, para. 9; CCPR, general comment No. 23, paras. 6, 7, 7.3, 7.5 and 8.6; CEDAW, general recommendation No. 19, para. 24 (t) and (t) (ii); CEDAW, general recommendation No. 26, paras. 26 (c) and 26 (f); CEDAW, general recommendation No. 27, para. 33; CEDAW, general recommendation No. 30, paras. 79 and 81 (g); CERD, general recommendation No. 30, paras. 16 and 25; CERD, general recommendation No. 35, para. 22; CMW, general comment No. 2, paras. 28, 35 and 53–54; CRC, general comment No. 16, para. 15 (c); CRC, general comment No. 19 (2013) on State obligations regarding the impact of the business sector on children's rights, paras. 4, 5, 14, 24, 44, 48, 61, 63 and 67; Human Rights Committee, general comment No. 35, para. 10; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 70/147, paras. 3 (c) and 4 (c); Human Rights Council resolution 20/1, "Trafficking in persons, especially women and children: access to effective remedies for trafficked persons and their right to an effective remedy for human rights violations", particularly para. 4; A/HRC/31/57, paras. 66–67; OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, guideline 9; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, principles 7 and 15 and guidelines 1 (10), 2 (12), 2 (13), 4 (6), 7 (9), 9 (14) and 9 (15); 6, and 22; report of the Special Rapporteur on trafficking in persons, especially women and children, basic principles on the right to an effective remedy for victims of trafficking in persons (A/69/269, annex).

[10] Human Rights Committee, general comment No. 20, para. 2, and general comment No. 31, para. 8; CESCR, general comment No. 20, paras. 40–41; CAT, general comment No. 2, para. 19; CEDAW, general recommendation No. 28, para. 25 (b); CEDAW, general recommendation No. 29, paras. 9–10, 13, 17, 36 and 39; CEDAW, general recommendation No. 30, paras. 3, 31, 32, 35, 38 and 41; Guiding Principles on Business and Human Rights; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders.

[11] CMW/C/TUR/CO/1, para. 34; CMW/C/SPA/CO/1, para. 25; New York Declaration for Refugees and Migrants, para. 61; Human Rights Council resolution 32/32, para. 10; Human Rights Council resolution 32/31, "Civil society space", para. 4.

[12] *Travaux Préparatoires of the Negotiations for the Elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto* (United Nations publication, Sales No. E.06.V.5), p. 469. See also the background paper prepared for the Working Group on the Smuggling of Migrants of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, "Examination of the 'financial and material benefit' aspect of the definition of smuggling of migrants" (CTOC/COP/WG.7/2017/4).

[13] Human Rights Council resolution 22/6, "Protecting human rights defenders", para. 11 (a); General Assembly resolution 70/161, "Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms", paras. 1, 2, 8, 10 (a), (b) and (c) and 15; report of the Special Rapporteur on the situation of human rights defenders, observations on communications transmitted to Governments and replies received (A/HRC/31/55/Add.1), para. 105. See also Special Rapporteur on the situation of human rights defenders, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* (2011), pp. 16–17.

[14] General Assembly resolution 70/161, paras. 10 (c) and (d) and 12; General Assembly resolution 70/163, "National institutions for the promotion and protection of human rights", para. 5; Human Rights Council resolution 22/6, "Protecting human rights defenders", paras. 3, 4 and 10; and resolution 31/32, "Protecting human rights defenders addressing economic, social and cultural rights", para. 11.

[15] Trades unionists can be considered human rights defenders. Any legislation that prohibits or restricts the right to freedom of association, including forming or joining trade unions, is also problematic in this context. See, inter alia, ICCPR, art. 22; ICESCR, art 8; ICERD, art. 5 (e) (ii); ICMW, arts. 26 and 40; ILO Declaration on Fundamental Principles and Rights at Work (1998); Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87); Right to Organize and Collective Bargaining Convention, 1949 (No. 98); Workers' Representatives Convention, 1971 (No. 135); and

CMW/C/TUR/CO/1, para. 54 (a); A/HRC/31/55/Add.1, para. 98; General Assembly resolution 68/181, "Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: protecting women human rights defenders", paras. 9 and 21(d); and resolution 70/161, para. 5; Human Rights Council resolution 31/32, para. 5.

[17] Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, paras. 5 and 9 (4).

[18] General Assembly resolution 70/161, para. 5; CMW/C/HND/CO/2, para. 25 (b); General Assembly resolution 70/163, para. 6; Human Rights Council resolution 31/32, para. 6; Special Rapporteur on the situation of human rights defenders, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, pp. 14–15.

[19] United Nations Convention against Corruption, art. 33; Human Rights Council resolution 31/32, para. 14; report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/70/361); UNODC, *Resource Guide on Good Practices in the Protection of Reporting Persons* (2015).

[20] Human Rights Council resolution 22/6, paras. 5 and 18, and resolution 31/32, paras. 4 and 6; General Assembly resolution 70/161, para. 4.

[21] Programme of Action of the International Conference on Population and Development, paras. 12.1, 12.9 and 12.25; Beijing Platform for Action, para. 206 (i); OHCHR, "Recommended Principles and Guidelines on Human Rights at International Borders, guideline 10 (10); New York Declaration for Refugees and Migrants, para. 25.

[22] Beijing Platform for Action, para. 206 (j); OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 10 (10).

[23] CEDAW, general recommendation No. 27, para. 32; 2030 Agenda for Sustainable Development, paras. 57 and 74 (g) and Sustainable Development Goals target 17.18. See also the final list of proposed Sustainable Development Goal indicators (E/CN.3/2016/2/Rev.1, annex IV); New York Declaration for Refugees and Migrants, para. 40.

[24] OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, guideline 3 (4).

[25] Programme of Action of the International Conference on Population and Development, para. 12.25; OHCHR, Recommended Principles and Guidelines on Human Rights at International Borders, guideline 10 (11); A/HRC/23/40, paras. 47–49; A/HRC/29/32, paras. 12 and 59; New York Declaration for Refugees and Migrants, para. 25.

[26] ICCPR, art. 17.

[27] A/HRC/23/40, paras. 67 and 90; A/HRC/29/32, para. 55; A/HRC/32/38, para. 56; IOM, *Practical Guide on Information Provision Regarding Return and Reintegration in Countries of Origin* (2010), p. 13.

[28] Human Rights Committee, general comment No. 16, para. 10. See also the 1990 guidelines for the regulation of computerized personal data files (General Assembly resolution 45/95).

[29] Programme of Action of the International Conference on Population and Development, para. 13.5; Agenda for Humanity, core responsibility three B; Human Rights Council resolution 29/2, para. 7 (i), and resolution 32/14, paras. 9 and 11; General Assembly resolution 70/147, para. 9 (a) and (c); General Assembly resolution 66/172, para. 8; General Assembly resolution 70/130, para. 24; A/71/285, throughout but particularly paras. 20, 24, 30, 52 and 61; OHCHR, "Italy's migrant hotspot centres raise legal questions"; OHCHR, "Migration control is not only about keeping people out – UN experts call for vision and leadership". A "whole of government approach" is one in which all government departments work collaboratively to ensure accessible and accountable public services. (See, for example, *E-Government Survey 2012: E-Government for the People* (United Nations publication, Sales No. E.12.II.H.2).

[30] Programme of Action of the International Conference on Population and Development, paras. 10.2, 10.6, 15.3 and 15.5; General Assembly resolution 66/172, para. 9 (f); Declaration of the High-level Dialogue on International Migration and Development, paras. 3, 10 and 23; General Assembly resolution 70/147, paras. 1 and 9; 2030 Agenda for Sustainable Development, paras. 29 and 41 and Sustainable Development Goals target 17.17; New York Declaration for Refugees and Migrants, paras. 7, 11, 24, 28, 32, 38, 40–43, 54 and 58; Human Rights Council resolution 32/14, para. 1; A/70/54, paras. 3, 5, 11, 14, 36, 59, 67, 80, 97 and 105 (a); E/C.12/2017/1, para. 10.

[31] UNHCR, *Refugee Protection and Mixed Migration: 10-Point Plan of Action*, point 5.

on Climate Change (see FCCC/CP/2015/10/Add.1); CRC, general comment No. 20, para. 80; CEDAW, general recommendation No. 35, paras. 14, 19 (a), 22, 59, 67 and 68; CMW/C/SEN/CO/2-3, para. 59; Human Rights Council resolution 31/32, para. 8; General Assembly resolution 70/163, para. 9; report of the Office of the United Nations High Commissioner for Human Rights, "Analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health" (A/HRC/32/23), paras. 22, 23 and 95; A/65/222; A/70/59, para. 3.

[195] ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), art. 9 (4); Durban Declaration, para. 49; and Programme of Action, para. 28; CEDAW, general recommendation No. 26, paras. 3, 19, 23 (a) and 26 (a), (c) and (f); General Assembly resolution 69/167, para. 20; 2030 Agenda for Sustainable Development, para. 29 and Sustainable Development Goals targets, including 8.8 and 10.7; Agenda for Humanity, core responsibility three B; A/71/285, paras. 12, 15, 23, 24, 35, 64, 72 and 123; A/HRC/23/46, paras. 73, 74, 83–85, 87, 88 and 91; A/HRC/29/36, paras. 23, 34, 58 and 61–75; report of the Special Rapporteur on the human rights of migrants on a 2035 agenda for facilitating human mobility (A/HRC/35/25), paras. 32 and 44.

[196] See principles 6.1 and 6.10 and related footnotes. See also report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/70/303), paras. 41–42.

[197] ICMW, art. 69; CMW, general comment No. 1, paras. 51–54; CMW, general comment No. 2, para. 16; CMW/C/PER/CO/1, para. 57; CMW/C/SEN/CO/2-3, para. 61; CMW, concluding observations on the initial report of Mauritania (CMW/C/MRT/CO/1), para. 37; CMW/C/ZUR/CO/1, para. 46; CMW/C/HND/CO/1, para. 43; CESCR, concluding observations on the fifth periodic report of the Russian Federation (E/C.12/RUS/CO/5), para. 17 (a); New York Declaration for Refugees and Migrants, annex II, para. 8 (p).

[198] ICMW, arts. 17 (1), 31, 45 (2) – (4), 64 (2) and 65(2); Durban Declaration, para. 49; and Programme of Action, para. 30 (c); New Urban Agenda, paras. 10 and 28; New York Declaration for Refugees and Migrants, para. 14.